

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :
 : **CP-41-CR-615-2021**
 v. :
 :
 DUANE NEUFER, : **OMNIBUS MOTION**
 Defendant :

OPINION AND ORDER

Duane Neuffer (Defendant) was arrested by the South Williamsport Police and charged with Driving Under the Influence: Impairment/Incapable of Driving Safely, Fourth Offense¹. The charge arises from a traffic stop conducted on Defendant. Defendant filed this timely Omnibus Pre-trial Motion on July 2, 2021. This Court held a hearing on the motion on November 19, 2021. In his Motion, Defendant challenges the traffic stop, asserting that the police did not have the requisite reasonable suspicion to stop his vehicle. As such, Defendant believes all evidence found because of this search is a violation of his constitutional rights and should be suppressed.

At the hearing on this motion, the parties requested to file briefs on the issue presented and Defendant filed his brief on December 3, 2021. Following personnel changes at the District Attorney's Office, counsel for the Commonwealth communicated to the Court on December 27th that their brief was not filed due to oversight, but that the Commonwealth maintained their original position that the traffic stop was lawful.

Background and Testimony

At the hearing on this motion, the parties stipulated that the MVR footage portrays an accurate representation of the events of the evening in question. The Commonwealth submitted the MVR, marked as Commonwealth's Exhibit 1. This footage shows the following. Officer

¹ 75 Pa.C.S. § 3802(a)(1).

Esposito (Esposito) of the South Williamsport Police Department is in a patrol unit stopped at a red light. After the light controlling Esposito's lane of travel turns green, a white truck passes through the intersection, presumably on a red light for that vehicle's corresponding traffic lane since the opposing light was already green. The patrol unit turns right to follow the truck and activates its siren and emergency lights to conduct a traffic stop on the vehicle. The truck pulls over into a nearby parking lot and parks in an empty space. Esposito approaches the truck and makes contact with the male driver, stating, "you weren't even close" and asks for license and registration. The driver, later identified as Defendant, responds that he does not have a license. Esposito asks for clarification and Defendant indicates that he does not have a license because of DUIs. Esposito asks Defendant how much he had to drink today and Defendant states, "none." Esposito inquired why he smelled alcohol and a female passenger stated, "that's me, I've been drinking." Defendant confirms the suspension of his driver's license and notes that he does not have an ignition interlock on the vehicle. Esposito once again asked for insurance and registration, and then directed Defendant to step out of the truck.

Defendant complies and denies having any weapons on his person. Esposito informs Defendant that he is going to conduct a pat-down search of Defendant for weapons. No weapons were found during this search. Esposito asks Defendant to sit in the front passenger seat of the patrol unit, which Defendant does. Esposito turns the camera around to record Defendant's face and asks him again how much he had to drink today. Defendant claims that he had "a couple beers." Once again, Esposito asks how many drinks Defendant consumed. Defendant admits to drinking "one small pitcher and two shots." Defendant states that he received his last DUI in 2018. Esposito confirms that Defendant is on probation because of his prior DUIs. Esposito instructs Defendant to remain in the patrol unit while he speaks to the

female passenger. After speaking with her, Esposito has Defendant perform field sobriety tests, which are visible on a second camera in the patrol unit. Defendant also conducted an initial breath test, which determined that Defendant's blood alcohol content was approximately 0.179. Defendant was taken into custody, advised of his *Miranda*² warnings, and transported to the hospital for a blood draw. Throughout the interaction, Defendant's speech is sluggish, thick, and slurred. Defendant admits to running the red light while being taken into custody.

Analysis

The issue presented is whether the police had the proper reasonable suspicion to subject Defendant to a vehicle stop. The Fourth Amendment to the United States Constitution and Article 1 Section 8 of the Pennsylvania Constitution protect citizens against unreasonable searches and seizures. U.S. Const. amend. IV; P.A. Const. art. 1, § 8. To determine if police had the proper reasonable suspicion, "the totality of the circumstances must be considered." Commonwealth v. Rogers, 849 A.2d 1185, 1189 (Pa. 2004). Police officers are granted the authority to effectuate stops pursuant to violations of the Motor Vehicle Code. 75 Pa. C.S. § 6308(b). "Whenever a police officer . . . has reasonable suspicion that a violation of this title is occurring or has occurred, he may stop a vehicle." Id.

Defendant asserts that reasonable suspicion was lacking in this case and, as a result, all the evidence obtained by Esposito following the traffic stop must be suppressed. The Motor Vehicle Code requires "vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, or if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown...." 75 Pa.C.S. § 3112(a)(3)(i). In his brief, Defendant argues that he did not

² Miranda v. Arizona, 384 U.S. 436 (1966).

violate this section of the Vehicle Code, claiming that the traffic light was yellow as he approached the stop line. Defendant contends that he could not stop safely because he was already in the intersection when the traffic light turned from yellow to red. Defendant also asserts that he did not accelerate through the intersection or otherwise drive unsafely while continuing through the traffic light. Defendant argues that the Commonwealth has failed to present evidence as to what color traffic light Defendant had at the time of the alleged incident. Defendant also argues that the Commonwealth did not show evidence regarding the timing of traffic lights and states that the front of Defendant's vehicle was already over the clearly marked stop line and the cross walk when the light facing Esposito turned green.

The Commonwealth believes that the video demonstrates enough to validate the traffic stop conducted on Defendant and supports his interaction with Esposito. This Court agrees with the Commonwealth on this issue. This Court finds Defendant's arguments about the Commonwealth failing to provide evidence of the timing of the traffic lights to be hyper-technical at this stage of the proceedings. This Court concedes that it is the Commonwealth's burden to prove "by a preponderance of the evidence that the challenged evidence is admissible." Commonwealth v. DeWitt, 608 A.2d 1030, 1031 (Pa. 1992). However, this Court is of the opinion that the Commonwealth has shown it is more likely than not that Defendant violated the Motor Vehicle Code resulting in a lawful traffic stop. Although Defendant claims the light was yellow at the time he entered the intersection, the MVR footage clearly shows Defendant's vehicle approximately halfway through the intersection when the light facing Esposito's patrol unit is already green. Using a common sense approach, it is reasonable to assume that traffic lights do not allow perpendicular lanes of traffic to pass through the intersection simultaneously. It is also safe to assume that traffic lights allow some additional

time for drivers facing a yellow light to pass through safely if it is too late for them to come to a stop before the opposing traffic light turns green.

It is also reasonable to conclude that if one traffic light is green, as it was in this case, that the opposing light is red. Upon review of the footage, this Court holds that, based on Defendant's location in the intersection when the light turned green, Defendant should have had plenty of time to come to a stop but instead continued through the red light in violation of 75 Pa.C.S. § § 3112(a)(3)(i).

Conclusion

The Court finds that the requisite reasonable suspicion existed to justify a traffic stop on Defendant and his vehicle. Therefore, the evidence obtained shall not be suppressed.

ORDER

AND NOW, this 9th day of March, 2022, based upon the foregoing Opinion, it is **ORDERED** and **DIRECTED** that Defendant's Motion to Suppress Evidence is **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA (MW)
Kyle W. Rude, Esquire
Law Clerk (JMH)