

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA, : CR-610-2024  
 :  
 vs. :  
 :  
 JEFFERY HUNTER, :  
 :  
 Defendant. : Omnibus Pretrial Motion

**OPINION AND ORDER**

This matter came before the Court for an evidentiary hearing on the Defendant’s Omnibus Pretrial Motion, filed October 12, 2024. The gravamen of that Motion is Defendant’s contention that the Pennsylvania State Troopers who effected a traffic stop on the Defendant on July 29, 2023, lacked probable cause to do so.

At the hearing on the Motion, the Commonwealth presented the testimony of Trooper Ernest Capobianco. Trooper Capobianco testified that, on July 29, 2023, he was working a shift from 10:00 p.m. to 6 a.m. when he first observed the Defendant’s vehicle being operated in the City of Williamsport. He observed through the side vehicle mirror of his vehicle that the Defendant’s vehicle did not have its tail lights illuminated.

Our Superior Court, in *Commonwealth v. Bush*, restated the following on probable cause:

Probable cause is made out when the facts and circumstances which are within the knowledge of the officer at the time of the [stop], and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in the belief that the suspect has committed or is committing a crime. The question we ask is not whether the officer's belief was correct or more likely true than false. Rather, we require only a *probability*, and not a *prima facie* showing, of criminal activity. In determining whether probable cause exists, we apply a totality of the circumstances test. *Commonwealth v. Martin*, 627 Pa. 623, 101 A.3d 706, 721 (2014) (citation omitted) (emphasis in original). Pennsylvania law makes clear, however, that a police officer has probable cause to stop a motor vehicle if the officer observes a traffic code violation, even if it is a minor offense. *Chase, supra*.

*Commonwealth v. Bush*, 166 A.3d 1278, 1282-83 (Pa. Super. Ct. 2017); *see generally Commonwealth v. Slattery*, 139 A.3d 221, 222-23 (Pa. Super. Ct. 2016) (“If the alleged basis of a vehicular stop is to determine whether there has been compliance with the Commonwealth’s vehicle code, it is incumbent upon the officer to articulate specific facts possessed by him, at the time of the questioned stop, which would provide probable cause to believe that the vehicle or the driver was in violation of some provision of the code.”) (citing *Commonwealth v. Spieler*, 887 A.2d 1271 (Pa. Super. Ct. 2005)).

Trooper Capobianco testified that he turned his vehicle around, and that his partner engaged their dashcam camera. By the time Trooper Capobianco turned his vehicle around, Defendant had engaged his vehicle tail lights. The dashcam images confirm that, during the pursuit of Defendant’s vehicle, the dashcam lights were illuminated.

The affidavit prepared by Trooper Capobianco alleges a statement by the Defendant that he “was unaware that he pulled out from Seneca Ave. with his taillights off. He related that he must have had his daytime running lights on.” Although barely audible, the dashcam recording confirms that Trooper Capobianco has a conversation with the Defendant on the subject of his tail lights. That recording corroborates the testimony of Trooper Capobianco that the cause for the vehicle stop of the Defendant was Trooper Capobianco’s belief that the Defendant was operating a motor vehicle long after dark, with his tail lights turned off, in violation of 75 Pa.C.S. § 4302(a)(1).

It is impossible for the Court to speculate about the length of time that the Defendant was operating his vehicle with his tail lights turned off. It is entirely possible that he started to operate his vehicle shortly before he was seen by Trooper Capobianco. It is obvious that, very shortly after Trooper Capobianco observed that Defendant, and well before the stop, the Defendant engaged his tail lights. Thus, the question presented by Defendant’s Omnibus Pretrial Motion is, where a law enforcement officer observes a vehicle operated at night with its tail lights turned off, and then observes the tail lights turned on almost immediately thereafter, does the officer have probable cause to stop the vehicle for violation of 75 Pa.C.S. § 4302(a)(1), however brief in duration. The holding of the Court is that the officer does have probable cause to conduct a stop, under those facts.

**AND NOW**, this 18<sup>th</sup> day of November, 2024, for the reasons more fully set forth above, Defendant's Omnibus Pretrial Motion is denied.

BY THE COURT,

William P. Carlucci, Judge

WPC/aml

cc: Court Administrator  
Lycoming County District Attorney's Office  
Eric Williams, Esquire  
930 West Market Street  
Lewisburg, PA 17837