

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

COMMONWEALTH OF PENNSYLVANIA	:	CRIMINAL DIVISION
	:	CR-62-2025
v.	:	
	:	
SEMAJE BROWN,	:	Omnibus Motion
Defendant	:	

OPINION AND ORDER

This matter is before the Court on Defendant’s omnibus motion filed by and through counsel, Matthew Welickovitch, Esquire, on April 1, 2025. A hearing on the motion occurred on June 3, 2025. Attorney Welickovitch appeared on behalf of the Defendant, and Assistant District Attorney Jessica Feese represented the Commonwealth.

Defendant is charged under the above-captioned matter with one count of Driving Under the Influence, High Rate of Alcohol¹, one count of Driving Under the Influence, General Impairment², and two counts of Disregard of Traffic Lane^{3,4}, and one count of Careless Driving⁵.

On January 9, 2025, Defendant waived her preliminary hearing, and on January 27, 2025, Defendant waived arraignment. Defendant was granted a sixty (60) day extension of time to file her Omnibus Motion on March 3, 2025. Defendant timely filed her omnibus motion.

At the hearing on the motion, the Commonwealth presented Trooper Aaron Mylan of the Pennsylvania State Police to testify regarding the events leading to the charges.

¹ 75 § 3802 §§ (B).

² 75 § 3802 §§ (A)(1).

³ 75 § 3309 §§ (1).

⁴ 75 § 3309 §§ (1).

⁵ 75 § 3714 §§ (A).

Additionally, the Commonwealth submitted as Commonwealth Exhibit No. 1 the MVR footage from Trooper Mylan's patrol vehicle from the early morning hours of October 20, 2024. The Commonwealth posited that the MVR footage was slowed slightly, and without objection from Defendant, Commonwealth Exhibit No. 1 was admitted to the record. Defendant submitted Defense Exhibit No. 1, a still shot image from Google Maps of an aerial view the route Defendant traveled prior to the stop. Without objection from the Commonwealth, Defense Exhibit No. 1 was admitted to the record.

Background

By way of further background, Defendant was operating a motor vehicle on Washington Boulevard in Williamsport, Lycoming County, Pennsylvania, on October 20, 2024. Trooper Mylan of the Pennsylvania State Police Troop F-Montoursville conducted a traffic stop of the Defendant's vehicle for allegedly swerving within its lane and fluctuating its speed.

The Commonwealth presented Trooper Mylan at the hearing on the motion. Trooper Mylan, employed as a trooper since February of 2023, responds to criminal incidents, motorists suspected of driving under the influence of substances, and he enforces the motor vehicle code across Lycoming County, Pennsylvania. Trooper Mylan testified to conducting a traffic stop when he observed a black Honda CRV on Washington Boulevard make a right turn. The Commonwealth then played Commonwealth Exhibit No. 1. Trooper Mylan testified that he observed the driver of the black Honda CRV completely cross the center fog line. Trooper Mylan testified that his observations formed the basis for probable cause to conduct a traffic stop.

On cross-examination, counsel for the Defendant noted that one of the points of contact the Defendant made with the center fog line occurred in a turning lane, which

provides a relatively short distance for motorists to enter the turning lane and effectuate a turn. Trooper Mylan stated that Defendant crossed the center fog line at the cusp of the curve of the center fog line where the lane widens to create a turning lane. Additionally, the other portion of the road where Trooper Mylan observed Defendant cross the center fog line was along the stretch of road parallel to Lycoming College where students and residents park their vehicles along the road. Trooper Mylan testified that he did not observe abrupt or jerky maneuvers. Trooper Mylan did observe fluctuations in Defendant's traveling speed, which was not the basis for the stop.

In her motion, Defendant asserts that the MVR footage does not bear out the observations reported by Trooper Mylan to form the requisite probable cause to effectuate the traffic stop at issue. Thus, Defendant avers that the seizure of Defendant's vehicle on October 20, 2024, was unconstitutional, and requests the suppression of all evidence collected as a result of the unconstitutional seizure. At the hearing on the motion, Defendant argued that Trooper Mylan possessed neither reasonable suspicion nor probable cause to justify seizure of the vehicle under violations of the Motor Vehicle Code. Defendant argues that neither the MVR footage nor Trooper Mylan's assertions establish violations under the MVC.

Analysis

Both the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution protect individuals from unreasonable searches and seizures by the government. *Commonwealth v. Sands*, 887 A.2d 261, 268 (Pa. Super. 2005). However, "the Fourth Amendment does not prevent police from stopping and questioning motorists when [an officer] witness[es] or suspect[s] a violation of traffic laws, even if it is a minor offense." *Commonwealth v. Chase*, 599 Pa. 960 A.2d 108, 113 (2008) citing *United States v.*

Booker, 496 F.3d 717, 721-22 (D.C.Cir.2007). Law enforcement's statutory authority to conduct a motor vehicle stop is defined under 75 Pa.C.S. Section 6308(b), providing that:

Whenever a police officer is engaged in a systematic program of checking vehicles or drivers or has reasonable suspicion that a violation of this title is occurring or has occurred, he may stop a vehicle, upon request or signal, for the purpose of checking the vehicle's registration, proof of financial responsibility, vehicle identification number or engine number or the driver's license, or to secure such other information as the officer may reasonably believe to be necessary to enforce the provisions of this title.

Thus, when an officer suspects a motorist has committed or is committing a violation of the Motor Vehicle Code, but a stop is required to investigate further whether a violation has occurred, then an officer must possess reasonable suspicion to stop the vehicle.

Commonwealth v. Salter, 121 A.3d 987, 993 (Pa. Super. 2015). Yet, if a stop is unnecessary to establish that a violation of the Motor Vehicle Code has occurred, an officer is required to possess probable cause to stop the vehicle. *Id.*

The standard for reasonable suspicion to conduct a traffic stop is relatively low and relies on the information possessed by an officer plus the degree of reliability in the totality of the circumstances. *Commonwealth v. Shaw*, 246 A.3d 879, 883 (Pa. Super. 2021)(citing *Commonwealth v. Brown*, 606 Pa. 198, 996 A.2d 473, 477 (2010)). To satisfy reasonable suspicion justifying a traffic stop, "an officer must be able to point to specific and articulable facts which led him to reasonably suspect a violation of the [Motor Vehicle Code]."

Commonwealth v. Shaw, 246 A.3d 879, 883 (Pa. Super. 2021)(citing *Commonwealth v. Holmes*, 609 Pa. 1, 14 A.3d 89, 95 (2011)). Nevertheless:

[m]ere reasonable suspicion will not justify a vehicle stop when the driver's detention cannot serve an investigatory purpose relevant to the suspected violation. ... If it is not necessary to stop the vehicle to establish that a violation of the [MVC] has occurred, an officer must possess probable cause to stop the vehicle.

Commonwealth v. Shaw, 246 A.3d 879, 884 (Pa. Super. 2021)(citing *Commonwealth v. Salter*, 121 A.3d 987 (Pa. Super. 2015)).

Probable cause requires that the officer articulate specific facts possessed by him at the time of the questioned stop, which provides probable cause to believe that the vehicle or the driver was in some violation of the Motor Vehicle code. “Probable cause exists where the facts and circumstances within the officers’ knowledge are sufficient to warrant a person of reasonable caution in the belief that an offense has been or is being committed.”

Commonwealth v. Luv, 735 A.2d 87, 90 (Pa. 1999)(citation omitted).

Here, Trooper Mylan conducted the traffic stop based off of his observations of Defendant crossing the center fog line pursuant to 75 Pa.C.S.A. Section 3309(1)⁶ and careless driving pursuant to 75 Pa.C.S.A. 3714(a)⁷. Trooper Mylan testified to observing the crossovers and capturing the maneuvers on his MVR.

Defendant argues that Trooper Mylan’s observations are not sufficient under either probable cause or reasonable suspicion standards to have conducted a seizure of the vehicle here. Defendant argues the findings and holding by the Pennsylvania Superior Court in *Commonwealth v. Hedges*, 311 A.3d 618 (Table), 2023 WL 9016516, a non-precedential, analogous opinion to the instant matter.

In *Hedges*, Trooper Fischer observed a vehicle operated by the appellee travelling 10 miles under the posted speed limit and weaving through lane designators. Trooper Fischer conducted a traffic stop of appellee because appellee violated the summary offense of “roadways laned for traffic” and because he suspected appellee was texting while driving. *Id.*

⁶ Under 75 Pa.C.S.A. Section 3309(1): [w]henver any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others not inconsistent therewith shall apply: (1) Driving within single lane—[a] vehicle shall be driven as nearly as practicable entirely within a single lane and not be moved from the lane until the driver has first ascertained that the movement can be made with safety.

⁷ Under 75 Pa.C.S.A. Section 3714(a): [a]ny person who drives a vehicle in careless disregard for the safety of persons or property is guilty of careless driving, a summary offense.

The suppression court determined in *Hedges*, and the Superior court affirmed, that: (1) appellee's vehicle's movements over the yellow line were momentary, not erratic, and did not endanger anyone; (2) appellee's movement within the vehicle's own lane was not weaving within the lane; (3) the deviations were insignificant as observed by the court on the MVR footage; (4) the speed was appropriate during the nighttime hours. *Id* at 2. The suppression court did not rely on the holding in *Commonwealth v. Gleason*, 567 Pa. 111, 785 A.2d 983 (2001)(Superseded by statute. *See: Commonwealth v. Holmes*, 609 Pa. 1, 14 A.3d 89, 95 (2011)). Regardless, the Commonwealth argued on appeal that the suppression court's reliance on *Gleason, supra*, was misplaced. *Id*. In its Rule 1925(a) opinion, the suppression court explained that it cited *Gleason, supra*, 'for the proposition that a mere instance or two of moving a vehicle beyond the marked lane of travel' for a brief period was insufficient to establish to establish probable cause [sic] for a stop based on Section 3309."

Moreover, the Superior Court determined that such reliance was proper because the suppression court did not rely on the holding from *Gleason, supra*, that an officer must possess probable cause to conduct a vehicle stop for an investigatory purpose. Rather, the suppression court reviewed the facts in *Hedges, supra* under both probable case and reasonable suspicion standards as evaluated in *Gleason, supra*, and determined that the arresting officer did not possess either to lawfully conduct a stop. The case law sets forth that minimal violations must also have a level of being unsafe to be a basis for a violation under the MVC.

In the instant matter, in viewing the evidence in a light more favorable to the Commonwealth, the MVR footage does not show any MVC violations. The MVR footage reflects that: (1) each crossover was brief in duration; (2) the driver did not jerk the vehicle to return to the lane; (3) the first crossover occurred on a turn and did not appear to be done

hazardously; (4) the second crossover was at the “cusp” of a turning lane and was not done hazardously or with disregard to safety; and (5) the length of the two crossovers appear normal and consistent with driving around a turn and entering a turning lane. Accordingly, under a totality of the circumstances, the Court finds that Officer Mylan did not possess either probable cause or reasonable suspicion that a violation of the MVC occurred to conduct a traffic stop. Accordingly, the Defendant’s Motion to Suppress is **GRANTED**.

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA

PD

CA

Gary Weber, Esq.—Lycoming Reporter