

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

COMMONWEALTH OF PENNSYLVANIA	:	CRIMINAL DIVISION
	:	
v.	:	NO. CR-1393-2023
	:	
THEODORE BROWN,	:	Motion to Suppress
Defendant	:	Motion for Sanctions

OPINION AND ORDER

And now this 22nd day of December, 2025, before the Court are two separate but related Motions by the Defendant. First, the Defendant filed a Motion to Suppress on the basis that the Pennsylvania State Trooper did not have a reasonable suspicion of criminal activity to conduct a legal canine sniff. The second related Motion is for sanctions related to the Defendant's Request for K-9 Related Discovery and the Commonwealth's subsequent response. While these two Motions both involve issues related to the canine utilized in the case, the two issues have mistakenly become intertwined in the Motion to Suppress. The Motion to Suppress is premised on whether or not the Trooper had the requisite reasonable suspicion to call for and conduct a canine sniff of the Defendant's vehicle. The Defendant's Motion to Suppress did not challenge the involved canine's actual search of the Defendant's vehicle or that the involved canine lacked the proper training to conduct the sniff.

For incidents occurring on or around June 9, 2023, Defendant is charged with Possession of a Firearm with Manufacturer Number Altered¹, a felony of the second degree; Possession of a Firearm Prohibited², a felony of the second degree; Possession of a Small

¹ 18 Pa.C.S.A. §6110.2(a).

² 18 Pa.C.S.A. §6105(a)(1).

Amount of Marijuana³, a misdemeanor; Use/Possession of Drug Paraphernalia⁴, a misdemeanor; and a summary driving offense⁵.

At the initial hearing on the Motion to Suppress, the Commonwealth called Pennsylvania State Trooper Howard Young II to testify regarding the canine utilized in the sniff of the Defendant's vehicle and the canine's qualifications. The Defense objected to the testimony on the basis that they did not have the documentation for the qualifications and training of the canine to utilize to cross examine the witness. The Court granted the Defense a continuance in order to make a discovery request for the qualifications and training of the involved canine.

In retrospect, the Court has determined that the testimony being presented in regard to the canine is irrelevant to the issues raised by the Defendant in the Motion to Suppress. The Defendant did not challenge that the canine lacked the proper qualification or training to conduct the vehicle sniff. Nor did the Defendant articulate in its Motion to Suppress that the canine made an inaccurate hit on the vehicle. Thus, the results of the canine sniff are not at issue in the Motion to Suppress. Therefore, the Defendant's Request for K-9 Related to Discovery could and should have been considered outside the context of the Motion to Suppress. Similarly, the Defendant's Motion for Sanctions in regard to the Commonwealth's response to the Request for K-9 Related to Discovery will be considered in light of its impact of the entire case and not the context of the Motion to Suppress.

On September 23, 2024, the Court Ordered for the Defense to submit its Request for K-9 Related to Discovery to the Commonwealth within ten (10) days and for the Commonwealth to respond to the Request within thirty (30) days. The Defense submitted the

³ 35 Pa.C.S.A. §780-113(a)(31)(i).

⁴ 35 Pa.C.S.A. §780-113(a)(32).

⁵ 75 Pa.C.S.A. §4302(a)(1).

Request for K-9 Related to Discovery to the Commonwealth on September 24, 2024. On October 21, 2024, the Commonwealth verbally responded to the Defense that they were still waiting on the responsive documentation from the Pennsylvania State Police. On October 31, 2024, the Defense filed the Motion for Sanctions on the basis that the Commonwealth had not provided the requested documentation within the thirty (30) days ordered by the Court. On November 13, 2024, the Commonwealth provided the requested documentation to the Defense. The Defense has acknowledged receipt of the documentation.

The Commonwealth's provision of the documentation is beyond the deadline ordered by the Court. However, the Court set this deadline in consideration that the Defense was representing it was necessary in order to proceed with the Motion to Suppress. After further consideration, the Court has determined that the requested documentation is not relevant to the Motion to Suppress and there is no prejudice caused to the Defense by the Commonwealth providing the documentation twenty (20) days beyond the Court's deadline. This information may be relevant for trial, but at the time of the Motion to Suppress, the documentation was not critical to the Defendant's case. Additionally, there will be cases in which the qualifications and training of a canine will be relevant to a Motion to Suppress the results of a vehicle sniff and the failure to timely provide this information to the Defense would be prejudicial. However, this is not such a case and the Defendant's Motion for Sanctions is **DENIED**.

In regard to the Motion to Suppress, the Defendant argued that the Trooper Young lacked reasonable suspicion to conduct the canine sniff of the vehicle. First, the Defendant argued that Trooper Young only had the alleged odor of marijuana emanating from the car at the time he decided to call for the canine unit for the vehicle sniff. At the hearing for the Motion to Suppress, Trooper Young testified that as he approached the Defendant's vehicle

from the passenger side that he smelled a strong odor of marijuana and noticed the Defendant seemed nervous. Trooper Young further testified that Defendant's nervous behavior included his hands shaking, avoiding eye contact and mouth was dry. Trooper Young was made nervous regarding Defendant's behavior and patted his back in an attempt to calm the Defendant. The Defendant told Trooper Young that he did not have a medical marijuana card. Trooper Young requested the Defendant's driver and vehicle information. The Defendant informed Trooper Young that the vehicle belonged to a third party. This further piqued Trooper Young's suspicion regarding the Defendant's behavior. Trooper Young's partner, Trooper Leshner, conducted a criminal background check on the Defendant and informed Trooper Young that the Defendant had an outstanding warrant for felony firearm and narcotic offenses. Trooper Young testified that he knew about the warrant prior to making the decision to call in the canine for the vehicle search.

The Defendant cited Commonwealth v. Green, 168 A.3d 180 (Pa. Super 2017) for the standard for evaluating whether or not an officer had the requisite reasonable suspicion to deploy a canine for a vehicle sniff. (Defendant's Motion Paragraph 28). In Green, the Court held that the officer had reasonable suspicion to conduct the canine sniff on very similar facts and rationale that Trooper Young testified to during the hearing. In Green, the Court stated:

We conclude that Trooper Conrad possessed reasonable suspicion to detain Green on suspicion that he was trafficking drugs. When Trooper Conrad approached the vehicle and made contact with Green, he immediately noticed that Green was "overly nervous just for being stopped for a traffic violation," as Green's carotid artery was pulsating and "his lips and face area around his lips were trembling." N.T., 10/13/15, at 11–12. Upon reviewing the vehicle's documentation, Trooper Conrad discovered that the vehicle belonged to an absent third party, which, in his experience, raised his suspicion that the vehicle was being used for drug trafficking. In addition, Green stated that he was returning from Philadelphia, a city known to Trooper Conrad as a source location for narcotics. Trooper Conrad also performed a criminal background check on Green, which showed "a lengthy criminal history for ... assault and drug offenses." 1925(a) Op. at 3. Further, when Trooper Conrad stopped the vehicle, he remembered prior contacts with Green and with the subject vehicle.

Trooper Conrad's prior contact with Green, where Green was a passenger in a vehicle stopped by Trooper Conrad, resulted in recovery of cocaine and marijuana hidden in the engine compartment of the vehicle. Trooper Conrad's prior contact with the tan Dodge sedan resulted in recovery of a hypodermic needle in the passenger compartment. Under these circumstances, we agree with the trial court that Trooper Conrad possessed reasonable suspicion that Green was trafficking drugs.

Commonwealth v. Green, 2017 Pa. Super. 244, 168 A.3d 180, 184–85 (2017)

While Trooper Young did not testify that he had prior experience with the Defendant, he did have the additional facts of the odor of marijuana and the Defendant's statement that he did not possess a medical marijuana card. Based upon the standard outlined in Green and the facts testified to by Trooper Young, the Commonwealth has articulated reasonable suspicion to conduct the canine sniff of the vehicle. Therefore, the Court hereby **DENIES** the Defendant's Motion to Suppress based on the argument that Trooper Young lacked reasonable suspicion to conduct a canine sniff of the vehicle.

The Defendant raises a similar argument that Trooper Young did not have reasonable suspicion to conduct an investigatory detention of the Defendant. The Defendant claims that Trooper Young only had the odor of marijuana to go on, and that is insufficient to rise to the level of reasonable suspicion to conduct the investigatory detention. However, as stated above, Trooper Young testified to several additional facts. The Green Court held that the same facts that supported reasonable suspicion for the canine sniff were justification for an investigatory detention. The same applies here and the Court finds that Trooper Young had reasonable suspicion to conduct the investigatory detention. Therefore, the Court hereby **DENIES** the Defendant's Motion to Suppress on the basis that the investigatory detention was illegal.

Finally, the Defendant argues that the Search Warrant lacked Probable Cause because Trooper Young lacked reasonable suspicion to conduct a canine sniff or the investigatory

detention. As the Court has determined above that Trooper Young had reasonable suspicion to conduct both the canine sniff and the investigatory detention, the Court has already considered and rejected this argument. The Defendant did not put forth any further argument to support this challenge. The Court hereby **DENIES** the Defendant's Motion to Suppress based upon the argument that the search warrant was not supported by probable cause.

By the Court,

Ryan M. Tira, Judge

RMT

CC: DA; CA; PD

Gary Weber, Esq.—Lycoming Reporter