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Commonwealth v. Teems

**Commonwealth of Pennsylvania vs. James R. Teems, Defendant**  
Court of Common Pleas of the 39th Judicial District of Pennsylvania,  
Franklin County Branch Criminal Action No. 514-2011

**HEADNOTES**

*Post-sentence Motions; Sufficiency of the Evidence; Weight of the Evidence; Driving Under the Influence; Circumstantial Evidence*

1. The Commonwealth may meet its burden of proof with, solely, circumstantial evidence.
2. A jury is entitled to reach its verdict based upon the evidence submitted, but also based upon all inferences drawn therefrom.
3. Where evidence is submitted at trial to establish that at the time of the stop, the defendant was in the driver's seat of the vehicle, the vehicle was in a lane designated for travel, the brake lights were on, and the headlights were on, then there is sufficient circumstantial evidence for a jury to find that a defendant was in actual physical control of the vehicle.
4. Where evidence is submitted at trial to establish that the defendant displayed classic signs of intoxication, was unable to answer simple questions due to his diminished mental capacity, was unable to complete a portable breath test due to his inability to follow directions, and other factors, then there is sufficient evidence for a jury to find that a defendant was impaired to a degree that would render him incapable of safely operating a vehicle.

**Appearances:**

Franklin County District Attorney

David C. Dagle, Esq., Attorney for Defendant

James R. Teems, Defendant

**OPINION**

Before Herman, J.

**PROCEDURAL HISTORY**

Defendant, James Teems, was charged by Pennsylvania State Police- Chambersburg barracks (PSP) by way of criminal complaint filed January 22, 2011 for driving under the influence. A jury trial on the matter was held on April 27, 2012. The jury returned a verdict of guilty as to Count 1 – DUI 0.10%-0.159%, and guilty as to Count II – DUI General Impairment. The defendant now appeals from this verdict.

**FACTUAL HISTORY**

At the trial on this matter, the Commonwealth presented only one witness, Trooper Craig Finkle. No other witnesses testified, and the defendant presented no evidence. Through his testimony, Trooper Finkle provided the following facts: On December 12, 2010 at 2:00 a.m., PSP was dispatched to a broken down vehicle in a northbound lane of Interstate 81. Upon arrival, Trooper Finkle noted that the vehicle's brake lights were on. He also noted possible damage to the vehicle. The defendant was seated in the driver's seat.

Once the defendant was out of the vehicle, the trooper noted an odor of alcohol on the defendant, as well as slurred and slow speech. The trooper also testified that the defendant had trouble with his footing and with his hearing, but that this could have been medically related.

Trooper did not perform the standard field sobriety tests because of the possible medical condition of the defendant and because their location on the interstate would make it unsafe. He did attempt to administer a portable breath test, however, the defendant failed the test five times because he was unable to follow instructions. Trooper Finkle suspected that the defendant was intoxicated and arrested him. The defendant was transported to Chambersburg Hospital and chemical test was administered at 3:00 a.m. The lab results indicated that the defendant had a blood

alcohol content of 0.143%.

Following the close of evidence, the defendant moved for a judgment of acquittal based upon the sufficiency of the evidence presented. The Court heard argument on the motion and denied the requested relief, finding that sufficient evidence was presented to allow the jury to come to a decision which it subsequently did.

## DISCUSSION

### Sufficiency of the Evidence and Motion for Acquittal

Issue 1 of the Concise Statement raises the issue of the sufficiency of the evidence at trial regarding a) that the Defendant was in actual or physical control of the vehicle within two hours of blood being drawn and b) whether the Defendant was impaired to a degree that would make him incapable of safe driving. This issue was raised at trial by way of

Defendant's motion for acquittal. Issue 3 is a general challenge to the sufficiency of the evidence. We will incorporate it into this discussion as it concerns the same standards and facts.

In determining whether sufficient evidence exists on the record to allow the jury to have found that the Commonwealth has met its burden of proof

[w]e must determine whether the evidence admitted at trial, and all reasonable inferences drawn therefrom, when viewed in a light most favorable to the Commonwealth as verdict winner, support the conviction beyond a reasonable doubt. Where there is sufficient evidence to enable the trier of fact to find every element of the crime has been established beyond a reasonable doubt, the sufficiency of the evidence claim must fail.

Commonwealth v. Mobley, 14 A.3d 887, 889 (Pa. Super. 2011).

“[T]he Commonwealth . . . may sustain its burden by means of wholly circumstantial evidence.” Further “[a]ny doubt about the defendant’s guilt is to be resolved by the fact finder unless the evidence is so weak and inconclusive that, as a matter of law, no probability of fact can be drawn from the combined circumstances.” Commonwealth v. DiPanfilo, 993 A.2d 1262, 1264 (Pa. Super. 2010).

#### a) Actual Physical Control within Two Hours of the Chemical Test

The term ‘operate’ requires evidence of actual physical control of either the machinery of the motor vehicle or the management of the vehicle’s movement, but not evidence that the vehicle was in motion. Our precedent indicates that a combination of the following factors is required in determining whether a person had ‘actual physical control’ of an automobile: the motor running, the location of the vehicle, and additional evidence showing that the defendant had driven the vehicle.” A determination of actual physical control of a vehicle is based upon the totality of the circumstances.

The Commonwealth can establish through wholly circumstantial evidence that a defendant was driving, operating or in actual physical control of a motor vehicle.

Commonwealth v. Toland, 995 A.2d 1242, 1246 (Pa. Super. 2010)

(citations omitted).

Defendant’s motion for an acquittal was addressed during trial and is contained in pages 38 through 46 of the transcript, along with the Court’s ruling on the motion. During the trial, the jury did not hear

evidence that the keys were in the ignition or that the hood of the car

was warm. However, the jury did hear evidence that the Defendant was

in the driver’s seat of the vehicle, the vehicle was in a lane designated for travel, the brake lights were on, and the headlights were on. In the video of the traffic stop, admitted as evidence, the brake lights can be seen to be activated, then deactivated, and then activated again. The headlights can also be seen shining the area in front of the vehicle and reflecting

off passing vehicles. This evidence provided sufficient circumstantial

evidence to allow a jury to find that that the defendant had been in actual physical control of the vehicle. This was the Court’s reasoning for denying the motion at trial, because a jury could conclude that the operation of the brake lights and location of the vehicle could likely mean that the vehicle was in operation. Further, the jury heard evidence that the troopers were dispatched at approximately 2:00 a.m. The time on the video also indicates it was approximately 2:00 a.m. The results of the chemical test indicate the blood was drawn at 3:00 a.m.

Therefore, upon review of the record, we find that there was sufficient evidence presented that could allow a jury to find that the Defendant was in actual physical control of the vehicle within two hours of when the chemical test was administered.

#### b) Impairment of the Driver

The other issue to which Defendant challenges the sufficiency of the evidence is whether he was impaired to a degree that would make him incapable of safely driving. The Commonwealth presented evidence that the defendant's eyes were bloodshot, his speech was slurred, and he had an odor of alcohol. The trooper testified that these are signs of intoxication, and based upon his 17 years of experience, intoxication affects a driver's ability to drive safely and to timely react. (N.T. at 24-25). The Commonwealth also introduced testimony of the trooper and the video which show that the defendant was very confused and was suffering from diminished mental capacity at the time because the defendant had difficulty understanding simple questions, and the trooper needed to repeat them to the defendant. For example, in the video the defendant had difficulty answering whether he had his license and registration, where he was coming from, and what he had hit with his vehicle. Additionally, the trooper testified that the defendant was unable to complete a breathalyzer test after five attempts because he was unable to follow directions. This is not to mention other pieces of evidence which were presented to the jury, such as the fact that the defendant's vehicle struck something and that the defendant's vehicle was at rest on an interstate lane of travel.

The factors listed above provide more than sufficient evidence for the jury to have found that the defendant was incapable of safely operating a vehicle.

#### Weight of the Evidence

A new trial should not be granted because of a mere conflict in the testimony or because the judge on the same facts would have arrived at a different conclusion. A trial judge must do more than reassess the credibility of the witnesses and allege that he would not have assented to the verdict if he were a juror. . . . [T]he role of the trial judge is to determine that notwithstanding all the facts, certain facts are so clearly of greater weight that to ignore them or to give them equal weight with all the facts is to deny justice.

Commonwealth v. Bruce, 916 A.2d 657, 665 (Pa. Super. 2007) (quoting Commonwealth v. Widmer, 744 A.2d 745, 751-52 (2000)). There must be a verdict so contrary to the evidence that it shocks one's sense of justice. Bruce, 916 A.2d at 665.

In light of the discussion concerning the sufficiency of the evidence, and noting that no evidence to the contrary of the Commonwealth's evidence was introduced, we are unsure as to how the verdict could have been against the weight of the evidence. The Commonwealth introduced sufficient evidence to allow the jury to find the defendant guilty. We see no possibility that anyone's sense of justice could be shocked by the verdict rendered by the jury. Therefore, we submit that verdict was in accordance with the evidence, and not against the weight of it.

#### CONCLUSION

We submit that no error was committed at any time during this proceeding. Further, we submit that the verdict of the jury is supported by sufficient evidence, and is not against the weight of the evidence

#### ORDER

AND NOW, this 1st day of November 2012, pursuant to Pennsylvania Rule of Appellate Procedure 1931(c), IT IS HEREBY ORDERED that the Clerk of Courts of Franklin County shall promptly transmit to the Prothonotary of the Superior Court the record in this matter, along with the attached Opinion sur Pa. R. App. P. 1925(a). Pursuant to Pennsylvania Rules of Criminal Procedure 114, the Clerk of Courts shall immediately docket this Order and record in the docket the date it was made. The Clerk shall forthwith furnish a copy of the Order, by mail or personal delivery, to each party or attorney, and shall record in the docket the time and manner thereof.