

COMMONWEALTH OF PENNSYLVANIA
v. ANTHONY R. LALLI, Defendant
Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Fulton County Branch
Criminal Action No. 25-2006

Motion to suppress; Authority to arrest for summary violations of Motor Vehicle Code

1. Department of Conservation and Natural Resources Officers have the authority to stop vehicles and make warrantless arrests inside state park and forest lands for summary violations of the Motor Vehicle Code.
2. Department of Conservation and Natural Resources Officers have the authority to stop vehicles and make warrantless arrests for summary violations of the Motor Vehicle Code outside their primary jurisdiction when in engaged in a hot pursuit which began inside a state park, in accordance with Department of Conservation and Natural Resources Act and the Municipal Police Jurisdiction Act.

Appearances:

Fulton County District Attorney's Office

Eric J. Weisbrod, Esq., *Counsel for Defendant*

MEMORANDUM OF DECISION

Herman, J., September 11, 2007

Finding of Facts

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On July 21, 2006 Officer James Sleighter of the Department of Conservation and Natural Resources was on patrol in the Buchanan State Forest. He observed the defendant's vehicle traveling in front of his patrol vehicle and noticed from the registration sticker on the license plate that the registration was expired. Officer Sleighter suspected a summary violation of the Motor Vehicle Code for expired registration. Officer Sleighter did not immediately stop the defendant's vehicle because the roadway on which the Defendant and the Officer were traveling had no shoulder room. Instead, for safety reasons, the officer decided to stop the Defendant at a location further along the highway where the stop could be safely made. Officer Sleighter followed the Defendant's vehicle for approximately one mile at which time the vehicle left state park lands and entered on to public highway and private lands. However there was still no safe location available to stop the defendant's vehicle. After approximately two more miles Officer Sleighter made a safe vehicle stop in the village of Burnt Cabins. During the investigation of what Officer Sleighter believed was a summary violation of the Motor Vehicle Code he obtained information about the Defendant's identity which eventually was used to determine that the Defendant was driving during suspension for a driving under the influence related offense at the time of the incident.

Before the Court is the defendant's Motion to Suppress any evidence obtained by Officer Sleighter

on July 21, 2006 which was used to support the filing of a citation for driving under suspension. The Court held a hearing on the matter on Thursday, June 21, 2007 at which time the only evidence presented was the testimony of Officer Sleighter. The Commonwealth and counsel for the defendant have had an opportunity to provide written argument to the Court on the issues raised by the defendant. The matter is now ready for decision.

Issue Presented for Decision

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The defendant claims that Department of Conservation and Natural Resources Officers (hereinafter "DCNR") are not authorized to make arrests for summary violations of the Motor Vehicle Code. Conservation and Natural Resources Act, 71 Pa.C.S.A. 1340.303(7)(i) (hereinafter "the CNRA"). In addition the defendant cites the Superior Court's decision in Commonwealth v. Johnson, 743 A.2d 974 (Pa. Super. 1999) which confirmed the limitations set out in Section 1340.303(7)(I). The Superior Court in Johnson also disagreed with the Commonwealth's position that DCNR officers had authority under the Municipal Police Jurisdiction Act, 42 Pa.C.S.A. 8951 et seq. (hereinafter MPJA), to arrest for a summary violation occurring outside their primary jurisdiction.

The Commonwealth, in the instant case, responds by arguing that subsequent legislation enacted by the General Assembly on June 25, 2001 under the provisions of the Motor Vehicle Code has now provided DCNR officers with the authority to stop vehicles suspected of summary offenses. 75 Pa.C.S.A. 6313(a). Upon comparing the provisions of the seemingly contradictory statutes, we find section 6313(a) is controlling. The authority cited by the Commonwealth leads us to conclude that the legislation enacted after the Superior Court's decision in Johnson now provides DCNR officers with the power to arrest for summary offenses under the Motor Vehicle Code. This is particularly so when the language of section 6313(a) of the Motor Vehicle Code provides the authority to arrest for summary offenses in state park and forest lands "**Notwithstanding any provision of law to the contrary...**" 1 Pa.C.S. 1936[1] and Commonwealth v. Edward Lloyd Hancher, No. 310CR2006 (Clarion County C.P.). We conclude that Officer Sleighter had authority to stop the defendant's vehicle inside Buchanan State Forest property had he been able to find a safe location to do so. However, since the defendant was stopped outside state forest lands the defendant argues that Officer Sleighter had no authority to arrest outside of his primary jurisdiction -- the state forest lands.

The defendant relies on the Superior Court decision in Commonwealth v. Johnson, *supra*, as the authority for limiting the arrest powers of DCNR police to their primary jurisdiction. There is no question that the Superior Court relying on section 1340.303(a)(7)(i) of CNRA properly held that the extra-territorial powers of the MPJA were not available to DCNR police. This is simply to state that if DCNR police do not have the inherent authority to arrest for summary violation of the Motor Vehicle Code they certainly do not have extra-territorial powers to arrest under the MPJA for a summary violation.

However, as we noted previously, the legislative enactment of section 6313 of the Motor Vehicle Code on June 25, 2001 overcomes the limitations of 1340.303(a)(7)(i) of the CNRA. Therefore we must determine whether the enactment of section 6313 of the Motor Vehicle Code subsequent to the Superior Court's decision in Commonwealth v. Johnson, *supra*, now makes available to DCNR police the extra-territorial powers of arrest under the MPJA, 42 Pa.C.S.A. 8953(a)(2). With regard to this issue we find the reasoning of President Judge Arner of the Court of Common Pleas of Clarion County in the case of Commonwealth v. Edward Lloyd Hancher, *supra*, to be persuasive. First, President Judge Arner determines that the limitations of 1340.303(a)(7)(i) are no longer applicable with the enactment of Section 6313 of the Motor Vehicle Code. Next he observes that section 1340.303(a)(7)(ii) provides authority to the DCNR to confer upon DCNR police the same powers and prerogatives of a police force of a city of the first class. He holds that cities of the first class fall within the definition of municipality under the MPJA and therefore police officers of a first class city are entitled to make warrant-less arrests outside their primary jurisdiction when in hot pursuit. Since DCNR police are given the same powers and authority as police officers of first class cities, Judge Arner concludes that DCNR police also assume the extra-territorial powers of arrest that are contained in the MPJA. President Judge Arner's reasoning is supported by the Superior Court's holding in Commonwealth v. Holderman, 425 A.2d 752 (Pa. Super. 1981). In Holderman university police were determined to have the same powers held by municipal police of the municipalities wherein a college or university is located. 71 P.S. 646(e). The Superior Court concluded that the power of extra-territorial arrest existed in municipal police officers when in fresh pursuit of a summary offender and therefore university police must also have the same power. President Judge Arner concluded that a fair interpretation of section 1340.303(a)(7)(ii) and Commonwealth v. Holderman that DCNR police are authorized to make arrests outside their primary jurisdiction when in "hot pursuit" in accordance with the MPJA, 42 Pa.C.S.A. 8953(a)(2).

We agree with the reasoning in President Judge Arner's Opinion and, therefore, conclude as a matter of law in this case that Officer Sleighter had the same powers as a municipal police officer and was therefore permitted to make the arrest of the defendant outside of Buchanan State Park as he was in fresh pursuit of the defendant and the underlying offense occurred within the boundaries of the state park. For these reasons the Court will enter an Order denying the defendant's Motion to Suppress.

ORDER OF COURT

Now this 11th day of September 2007, for the reasons stated in the attached Opinion, the defendant's Motion to Suppress is hereby denied. The Court directs the Court Administrator to schedule the matter for trial de novo at the earliest possible date.

[1] Pa.C.S.A. 1936 provides that "[w]henver the provisions of two or more statutes enacted finally by different General Assemblies are irreconcilable, the statute latest in date of final enactment shall prevail."