

Commonwealth v Miller

Commonwealth of Pennsylvania v. Andrew Miller, Defendant
Court of Common Pleas of the 39th District of Pennsylvania,
Franklin County Branch
Criminal Action No. 2344-2012

HEADNOTES

Criminal Law; Suppression of Evidence

1. The forcible stop of a motor vehicle is a seizure triggering the protections of the Fourth Amendment.
2. When a police officer makes a traffic stop for purposes of investigating whether a crime is occurring, the officer need only have reasonable suspicion.
3. To conduct a traffic stop when the driver's detention cannot serve an investigatory purpose relevant to the suspected violation, the officer must have probable cause to effectuate such a stop.
4. An officer has probable cause when the facts and circumstances within the officer's knowledge are sufficient to warrant a person of reasonable caution in the belief that an offense has been or is being committed.
5. An officer need not have probable cause or reasonable suspicion to run the registration of a vehicle; however, if that check indicates that a violation of the Motor Vehicle Code has or is occurring, the officer then has probable cause and may effectuate a traffic stop of the vehicle.

Appearances:

Clinton Barkdoll, Esq., Attorney for the Defendant
Andrew Miller, Defendant
Zachary Mills, Esq., Assistant District Attorney

OPINION

Before Van Horn, J.

STATEMENT OF THE CASE

On September 15, 2012, Defendant was arrested and later charged with Driving Under the Influence in violation of 75 Pa.C.S.A. § 3802(a)(1). On January 29, 2013, Defendant filed a Motion Requesting Suppression of Evidence arguing that the stop of his vehicle was without sufficient probable cause and therefore, that all evidence obtained as a result of that stop should be suppressed. This Court held hearing on the Motion on April 1, 2013. Counsel for both the Commonwealth and the Defendant filed written legal argument to this Court on April 15, 2013. By this Opinion and Order of Court, the Defendant's Motion Requesting Suppression of Evidence is denied.

DISCUSSION

The forcible stop of a motor vehicle is a seizure triggering the protections of the Fourth Amendment. *See Commonwealth v. Knotts*, 663 A.2d 216, 218 (Pa. Super. 1995). The issue of what "quantum of cause" is required for law enforcement to stop a vehicle for an alleged violation of the Vehicle Code is an area of the law which has experienced recent changes. *See Commonwealth v. Feczko*, 10 A.3d 1285, 1287 (Pa. Super. 2010). Section 6308(b) of the Vehicle Code provides the relevant statutory authority for such detentions. *See* 75 Pa. C.S. § 6308(b). In February of 2004, the section was amended to provide that when a police officer possesses reasonable suspicion that a violation of the Vehicle Code has occurred or is occurring, he may effectuate a traffic stop "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." *See* 75 Pa. C.S. § 6308(b).

Contrary to the seemingly plain language of the amendment, both the Supreme Court and the Superior Court have interpreted the reasonable suspicion standard as applying where the offenses involved are “investigatable.” *Commonwealth v. Chase*, 960 A.2d 108, 116 (Pa. 2008). See also *Feczko*, 10 A.3d at 1290. In *Chase*, the Supreme Court stated:

[O]ne must remember the reason why the Constitution tolerates the lesser standard articulated in *Terry*—the detention is allowed to maintain the *status quo* so the officer may conduct a brief and safe investigation to see if indeed there is criminal activity afoot. Extensive case law supports the conclusion a vehicle stop for DUI may be based on reasonable suspicion, as a post-stop investigation is normally feasible. **However, a vehicle stop based solely on offenses not “investigatable” cannot be justified by a mere reasonable suspicion, because the purposes of a Terry stop do not exist—maintaining the status quo while investigating is inapplicable where there is nothing further to investigate. An officer must have probable cause to make a constitutional vehicle stop for such offenses.**

Chase, 960 A.2d at 115-16. The Superior Court has explained the holding of *Chase in Feczko* as follows:

Traffic stops based on a reasonable suspicion: either of criminal activity or a violation of the Motor Vehicle Code under the authority of **Section 6308(b)** must serve a stated investigatory purpose. Mere reasonable suspicion will not justify a vehicle stop when the driver’s detention cannot serve an investigatory purpose relevant to the suspected violation. In such an instance, it is incumbent [sic] 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.*

Feczko, 10 A.3d at 1291 (emphasis in original) (quotations omitted). Thus, in the instant case, the Commonwealth must demonstrate that Trooper Cox possessed probable cause to believe a violation of the Vehicle Code had occurred.

A police officer has probable cause “where the facts and circumstances within the officer’s knowledge are sufficient to warrant a person of reasonable caution in the belief that an offense has been or is being committed.” *Commonwealth v. Rogers*, 849 A.2d 1185, 1192 (Pa. 2004) (citing *Commonwealth v. Gibson*, 638 A.2d 203, 206 (Pa. 1994)). There is no requirement that an actual violation of the Vehicle Code be established, but rather only that a reasonable basis existed for the action of stopping a vehicle. See *Commonwealth v. Vincett*, 806 A.2d 31 (Pa. Super. Ct. 2002). Indeed, our appellate courts have repeatedly held that “even stops based on factual mistakes generally are constitutional if the mistake is objectively reasonable.” *Commonwealth v. Muhammed*, 992 A.2d 897, 901 (Pa. Super. Ct. 2010). To validate a vehicle stop, there need only be a reasonable basis for the officer’s belief. See *id.*

The Defense raises the issue of whether Trooper Cox was legally permitted to run the Defendant’s registration without any suspicion that a violation of the Motor Vehicle Code had or was being committed, in order to discover probable cause to stop the Defendant’s vehicle. *Commonwealth v. Bolton* is factually similar to the instant case and supports Trooper Cox’s actions. See *Commonwealth v. Bolton*, 831 A.2d 734 (Pa. Super. 2003). In *Bolton*, without suspicion of wrongdoing, the officer ran the defendant’s vehicle’s registration through the National Crime Information Center (“NCIC”) system, which indicated that the vehicle did not have proper financial responsibility, as required by the Motor Vehicle Code. See *id.* at 737. The Court stated that “we fail to see the need for some level of suspicion to check a license plate which is clearly in plain view.” *Id.* Further, the *Bolton* court reasoned that “[s]ince NCIC reports can form the basis of probable cause, the officer had sufficient probable cause to stop Appellant when he learned through the NCIC report that the vehicle being driven by Appellant lacked proper financial responsibility.” *Id.* Therefore, an officer need not have probable cause or reasonable suspicion to run the registration of a vehicle; however, if that check indicates that a violation of the Motor Vehicle Code has or is occurring, the officer then has probable cause and may effectuate a traffic stop of the vehicle.

At the hearing on April 1, 2013, Trooper Cox testified that while on general patrol, he ran the registration of the vehicle traveling in front of him. That check indicated that the owner of the vehicle, the Defendant, had a suspended driver’s license and provided a picture of the owner of the vehicle. Trooper Cox indicated that he had a clear view of the driver of the vehicle and identified him as the same individual the registration check had indicated was the owner of the vehicle. The Mobile Video Recording (“MVR”) that was played at the hearing by the Commonwealth displays an instant where Trooper Cox would have gotten a view of the driver of the vehicle and could have identified him. This evidence, along

with the Trooper's testimony, convinces the Court that the facts are sufficient to "warrant a person of reasonable caution" to believe that the Defendant was the driver of the vehicle and therefore was driving on a suspended license, in violation of the Motor Vehicle code. Therefore, Trooper Cox had probable cause to initiate a traffic stop of the Defendant's vehicle.

Trooper Cox testified that before he could effectuate a traffic stop of the vehicle, the Defendant turned onto a dirt road. Trooper Cox followed the Defendant's vehicle, and found the vehicle minutes later parked behind a trailer. Trooper Cox then knocked on the door of the trailer and when the person he identified as the vehicle's passenger opened the door, Trooper Cox asked for the driver of the vehicle to come outside. At that time, the Defendant came out of the trailer. Trooper Cox testified that the Defendant had an odor of alcohol on his breath and glassy eyes. Upon being asked if he had been drinking, the Defendant initially said he had not been drinking, but then said he had one or two beers. Trooper Cox administered field sobriety tests to the Defendant, and testified that the Defendant displayed indications of impairment. While Defendant argues that the MVR does not display the indications of impairment that Trooper Cox identified in his testimony, the Court disagrees. The MVR showed the Defendant failing to follow the Trooper's instructions, using his arms for balance, missing his heel to toe during the walk and turn test, and swaying during the one-leg stand test. Based on his observations, Trooper Cox determined that the Defendant was incapable of safe driving.

Defendant testified that he was not the driver of the vehicle, but when Trooper Cox asked him to perform the field sobriety tests, he felt he could not argue with the Trooper and tell him that he had not been driving. However, the MVR showed that the Defendant was not afraid to have an ongoing conversation with the Trooper. The Court finds it unconvincing that, if the Defendant actually hadn't been the driver of the vehicle, that he still voluntarily underwent multiple field sobriety tests and never once mentioned to the Trooper that he was not the driver or questioned why the Trooper was asking him to undergo the tests. Therefore, the Court does not find the Defendant's version of events to be credible and relies on the testimony of Trooper Cox and the MVR to make its determinations.

CONCLUSION

Based on the foregoing discussion, Trooper Cox had probable cause to effectuate a traffic stop on the Defendant's vehicle because the check of the vehicle's registration indicated that the Defendant's license had been suspended. Upon coming into lawful contact with the Defendant, Trooper Cox had reason to administer field sobriety tests, which indicated the Defendant was impaired and led to the charge of Driving Under the Influence being lodged against the Defendant. Therefore, the Defendant's Motion Requesting Suppression of Evidence fails on its merits and will be denied.

ORDER OF COURT

AND NOW THIS 22nd day of April, 2013, the Court having reviewed and considered the Defendant's Motion Requesting Suppression of Evidence, having heard the testimony provided at the hearing on April 1, 2013, and having reviewed both the Defendant's and Commonwealth's post-hearing written submissions in support of their positions, and having reviewed the applicable law;

IT IS HEREBY ORDERED THAT the Defendant's Motion Requesting Suppression of Evidence is DENIED.

Pursuant to the requirements of Pa. R. Crim. P. 114, the Clerk of Courts shall immediately docket this Opinion and Order of Court and record in the docket the date it was made. The Clerk shall forthwith furnish a copy of the Opinion and Order of Court, by mail or personal delivery, to each party or attorney, and shall record in the docket the time and manner thereof.