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2024 AUG 27 3:45

IN THE COURT OF COMMON PLEAS OF LEBANON COUNTY
PENNSYLVANIA

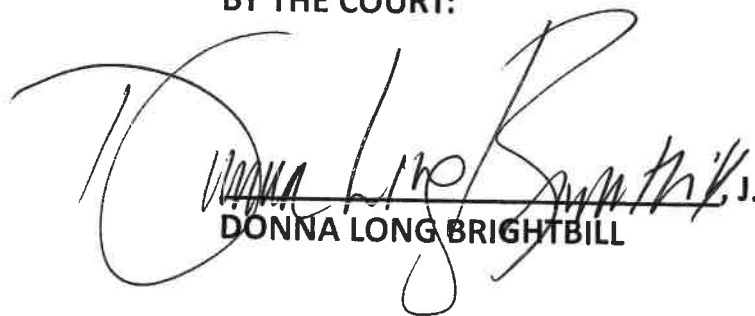
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA	:	NO. CP-38-CR-564-2024
	:	
v.	:	
	:	
NELSON RICHARDSON	:	

ORDER OF COURT

AND NOW, this 27th day of August, 2024, upon consideration of Defendant's Motion to Suppress Physical Evidence and the evidence adduced at the hearing conducted on August 14, 2024, it is hereby Ordered that said Motion is DENIED. Defendant is directed to appear for the Call of the List scheduled for October 1, 2024 and the term of Criminal Jury Trials to commence on October 21, 2024 at 8:30 a.m. in the designated Courtrooms.

BY THE COURT:


DONNA LONG BRIGHTBILL

DLB/jah

**Cc: Daniel Herrador Linares, Esquire
Jay Nigrini, Esquire/Sodomskey & Nigrini/606 Court Street, Suite
400/Reading, PA 19601
Leslie Fillak/Court Administration
Lisa Halsell/Judges Chambers
Judith Huber, Esquire/Law Clerk**

IN THE COURT OF COMMON PLEAS OF LEBANON COUNTY
PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA : NO. CP-38-CR-564-2024
 :
 v. :
 :
 NELSON RICHARDSON :

APPEARANCES:

DANIEL HERRADOR LINARES, ESQUIRE FOR THE COMMONWEALTH
ASSISTANT DISTRICT ATTORNEY

JAY NIGRINI, ESQUIRE FOR NELSON RICHARDSON
SODOMSKY & NIGRINI

OPINION, LONG BRIGHTBILL, AUGUST 27, 2024.

Defendant is charged with one count of Endangering Welfare of Children, one count of Possession of Drug Paraphernalia, three counts of Driving Under the Influence of Controlled Substances, one count of Possession of Small Amount of Marijuana¹ and the summary offense of Careless Driving.² Defendant has filed an Omnibus Pretrial Motion seeking to suppress physical evidence obtained as the result of a traffic stop conducted on December 30, 2023 at approximately 10:26

¹ Counts 1 through 6, 18 Pa.C.S.A. §4304(a)(1), 35 P.S. §780-113(a)(32), 75 Pa.C.S.A. §3802(d)(1)(i), 75 Pa.C.S.A. §3802(d)(2), 75 Pa.C.S.A. §3802(d)(1)(iii), and 35 P.S. §780-113(a)(31)(i), respectively.

² 75 Pa.C.S.A. §3714(a).

p.m. in the City of Lebanon. We conducted a hearing on the Motion on August 14, 2024 and the matter is before us for disposition.

At the hearing, Patrolman Travis Pidcock of the Lebanon City Police Department testified that he was on patrol duty in the City on December 30, 2023 at approximately 10:26 p.m. He was driving southbound on North 7th Street heading toward Guilford Street in a marked police vehicle behind a silver minivan. When the minivan was approximately 20 to 30 feet from the intersection with Guilford Street, he observed it suddenly brake such that the back of the van lifted up and the front dipped down. This action appeared to have been taken to avoid a collision with a black vehicle that pulled out in front of the silver minivan while attempting a left turn from Guilford Street onto North 7th Street. Officer Pidcock confirmed that there was a stop sign at that intersection on Guilford Street and there was no stop sign on North 7th Street. Officer Pidcock observed that there were no parked vehicles which would have obstructed the vision of the driver of the black vehicle.

As a result of what he observed, Officer Pidcock made a U-turn and headed north on North 7th Street to follow the black vehicle. He explained that he did not immediately activate his lights or his dashcam as he had to make the U-turn and then catch up to the black vehicle. Officer Pidcock observed the black vehicle turn

east onto Canal Street from North 7th Street and Officer Pidcock followed it onto Canal Street. When he turned onto Canal Street, he saw that the black vehicle had turned off of Canal Street into the parking lot of a grocery store. The black vehicle traveled through the parking lot to the other side of the store and re-entered North 7th Street heading north. Officer Pidcock followed the black vehicle and conducted a traffic stop when it pulled into the McDonald's at the intersection of Maple Street and North 7th Street based on his observation of a violation of 75 Pa.C.S.A. §3714(a) (Careless Driving). Defendant was identified as the driver.

The Commonwealth introduced two aerial photos of the area where this incident occurred. (Exhibits "1" and "2") Exhibit "2" indicated the location where Officer Pidcock initially encountered Defendant's vehicle and Defendant's path of travel to the location of the traffic stop. Officer Pidcock explained that he followed Defendant because he observed that Defendant nearly caused a collision at the intersection of North 7th Street and Guilford Street and he was concerned with Defendant's driving. Officer Pidcock acknowledged that he did not observe any additional erratic driving on the part of Defendant, but believed that Defendant had taken this route in an effort to elude the police vehicle.

Defendant testified that, at the time of this incident, he was driving his black Mercedes and his son was a passenger. He had stopped at the stop sign at

the intersection of North 7th Street and Guilford Street. Before making a left turn, he had to move up due to a blind spot. He explained that the minivan came out of nowhere and was only 20 feet away as he entered the intersection from Guilford Street. He explained that if he had stayed on Canal Street, he would have eventually reached his home on Tiffany Lane. However, he cut through the store parking lot because his son asked him to go to McDonald's. He insisted that he did not notice the police car following behind him until he arrived at the McDonald's parking lot and was stopped by Officer Pidcock.

§ 6308. Investigation by police officers

(b) Authority of police officer.--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.

75 Pa.C.S.A. §6308(b).

Section 6308(b) does not apply in all instances because not all vehicle offenses require further investigation to determine whether a motorist has committed an offense. Some offenses, by their very nature, require a police officer to possess probable cause before the officer may conduct a traffic stop.

Commonwealth v. Haines, 166 A.3d 449 (Pa. Super. 2017). The required level of justification hinges on whether the stop would serve a stated investigatory purpose. **Commonwealth v. Malloy**, 257 A.3d 142 (Pa. Super. 2021). If a vehicle is stopped for careless driving, the officer must possess probable cause to stop the vehicle, because when the vehicle is stopped, nothing more can be determined and no further investigation is necessary for such a violation. In most instances, the probable cause requirement is met based on a police officer's observation of the violation. **Commonwealth v. Ibrahim**, 127 A.3d 819, 824 (Pa. Super. 2015).

The careless driving statute provides, in part:

(a) General rule.--Any person who drives a vehicle in careless disregard for the safety of persons or property is guilty of careless driving, a summary offense.

75 Pa.C.S.A. § 3714. "The *mens rea* requirement applicable to Section 3714, careless disregard, implies less than willful or wanton conduct but more than ordinary negligence or the mere absence of care under the circumstances." **Commonwealth v. Sanders**, 259 A.3d 524, 529 (Pa. Super. 2021), citing **Commonwealth v. Gezovich**, 7 A.3d 300, 301 (Pa. Super. 2010).

Defendant contends that this was an unlawful traffic stop and that any evidence obtained after the stop should be suppressed. We disagree. Office Pidcock personally observed Defendant pull out of Guilford Street into the path of

the minivan, which had the right-of-way on North 7th Street. Defendant exhibited careless disregard for the safety of other persons on the roadway as he nearly caused an accident, exposing the occupants of the minivan as well as himself and his son, to potential injuries from a possible collision. Thus, we believe the Commonwealth established that Officer Pidcock had probable cause to conduct the traffic stop in order to issue Defendant a citation for Careless Driving and we will deny Defendant's request for suppression of evidence.