

**IN THE COURT OF COMMON PLEAS LEBANON COUNTY
PENNSYLVANIA**

CRIMINAL DIVISION

**COMMONWEALTH OF
PENNSYLVANIA**

v.

JESSE NOEL HEISEY

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NO. CP-38-CR-1274-2024

APPEARANCES

**Brian L. Deiderick, Esquire
DISTRICT ATTORNEY'S OFFICE**

**For Commonwealth of
Pennsylvania**

**Shannon S. Pascal, Esquire
PUBLIC DEFENDER'S OFFICE**

For Defendant

OPINION BY CHARLES, J., August 27, 2025

The Suppression Motion now before this Court is admittedly a close call. Police detained the Defendant based upon a confluence of factors, none of which by themselves would have justified an investigative detention. However, we agree with the Commonwealth that the totality of circumstances confronting police justified a decision to procure the assistance of a K-9 unit. Therefore, for reasons that will follow, we will deny the Defendant's Motion to Suppress.

I. FACTS

On June 22, 2024, Officer Christopher Moser (hereafter MOSER) of the South Lebanon Township Police Department observed a vehicle making an abrupt left turn into a parking lot. When MOSER looked more carefully at the vehicle, he noticed that the inspection stickers were not valid. He therefore conducted a traffic stop.

Upon approaching the driver's side of the vehicle, MOSER encountered Jesse Noel Heisey (hereafter DEFENDANT). He described DEFENDANT as "jittery", "overly talkative" and "elevated." DEFENDANT was able to procure his license and registration, but he was unable to provide insurance information. During the encounter, DEFENDANT indicated that he knew his car needed repairs. He asked MOSER to "give him a break."

During the encounter, MOSER observed two (2) lock boxes and Crown Royal bags inside the vehicle. DEFENDANT indicated that the lock boxes contained "my methadone." MOSER observed DEFENDANT holding a metal tube. Also during the encounter, DEFENDANT provided MOSER with inconsistent information about his travel destination.

MOSER testified that he knew from his experience and training that lock boxes and Crown Royal bags are often used to store drugs. Because of this, because of the inconsistent information given by DEFENDANT, because he asked for "breaks" on several occasions and because of DEFENDANT's nervous demeanor, MOSER asked for permission to search

the vehicle. DEFENDANT refused. MOSER then stated that he would procure a K-9 unit. This upset DEFENDANT. During the midst of DEFENDANT's anger, a lanyard that hung around his neck flew into the air. A substance appearing to be crack cocaine spilled out of the lanyard. DEFENDANT then said: "Search the f***** thing."

MOSER searched DEFENDANT's vehicle and found contraband. DEFENDANT was then placed under arrest and charged with numerous drug offenses. Once the case was bound over to Court, DEFENDANT filed a pre-trial Suppression Motion. A hearing was conducted before this Court on June 11, 2025. DEFENDANT raised two issues:

(1) That all of DEFENDANT's statements should be suppressed because no Miranda warnings were given until DEFENDANT was placed under arrest; and

(2) MOSER did not possess "reasonable suspicion" to detain DEFENDANT so that a K-9 unit could be summoned.

We will address both issues seriatim.

II. DISCUSSION

A. Statements by DEFENDANT

MOSER interacted with DEFENDANT for a considerable period of time before Miranda warnings were given. During this period of time, DEFENDANT provided information and statements. It is unclear to this

Court when during the encounter statements were made and which statements are sought to be suppressed.

Miranda is the foundational case that establishes the warnings that any law enforcement officer must give any custodial detainee before questioning under the 5th Amendment. **Miranda v. Arizona** 384 U.S. 436 (1966). Statements obtained during a custodial interrogation are presumed to be involuntary unless **Miranda** warnings are given first. **Commonwealth v. Luster**, 71 A.3d 1029, 1051 (Pa. Super. 2013). Specifically, a police officer must warn a detainee:

- (1) that he has the right to remain silent;
- (2) that anything he says can be used against him in a court of law;
- (3) that he has the right to consult with a lawyer; and
- (4) that counsel would be appointed if he could not afford a lawyer.

Miranda at 444.

A “custodial interrogation” is “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” **Commonwealth v. Herring**, 2025 WL 2181453 (Pa. Super. 2025) citing **Commonwealth v. Garvin**, 50 A.3d 694, 698 (Pa. Super. 2012). Voluntary or spontaneous utterances by a detainee are admissible without prior administration of Miranda warnings. **Id.** Furthermore, in defining what qualifies as an interrogation, the Commonwealth has incorporated the standard of **R.I. v. Innis**, 446 U.S. 291, 100 S. Ct. 1682 (1980) that:

“**Miranda** safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. That is to say, the term “interrogation” under **Miranda** refers not only to express questioning, but also to any words or actions on the part of police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect. The latter portion of this definition focuses primarily upon the perceptions of the suspect, rather than the intent of police.” **Commonwealth v. Whitehead**, 629 A.2d 142, 145 (Pa. Super. 1993); **Commonwealth v. Chacko**, 459 A.2d 311, 314 (Pa. 1983); quoting **R.I. v. Innis** 446 U.S. 291, 100 S. Ct. 1682 (1980).

This Court has ruled in the past that some questions, even after custody is established, do not constitute an interrogation. In **Commonwealth v. Barrett** we ruled that a flippant, rhetorical “why did you do that?” in the middle of a prolonged physical struggle between the defendant in that matter and the arresting officer was not an interrogation. **Commonwealth v. Barrett**, CP-38-CR-762-2014 (Charles, J. 2014)¹. This was similar to an off-the-cuff question by police, namely “why do you care?” in a Pennsylvania Superior Court case, where a defendant inquired about the health of an officer involved in his arrest. **Commonwealth v. Jones**, 471 A.2d 879 (Pa. Super. 1984). In both these cases, the resulting

¹ Our decision in **Barrett** was affirmed by the Pa. Superior Court.

confession by the Defendant was not suppressed because the Officer's questions were flippant, rhetorical, functional equivalents of an emotional grunt or expletive, which the Officer could not have known would elicit an incriminating response.

A totality of the circumstances test can be used to determine whether a custodial interrogation has occurred. In ***Commonwealth v. Spence***, 290 A.3d 301, 315-16 (Pa. Super. 2023), the court held that the defendant was not in custody, and therefore not subject to custodial interrogation, when he made statements about his marijuana use at a traffic stop. After being pulled over and asked about his marijuana use, the defendant voluntarily told police that he had smoked marijuana four hours prior and admitted he used marijuana after field sobriety tests were conducted. ***Id.*** at 315. Only after these admissions did the officers arrest the defendant. The court cited multiple factors when determining that he was not considered to be in custody when asked about his drug use:

- a. The stop was only fifteen (15) minutes long;
- b. The defendant was not physically restrained or placed in a patrol car;
- c. The stop occurred on a public roadway;
- d. The officers never displayed weapons to coerce the defendant into a confession or to comply; and
- e. The number of questions asked by the officers was modest. ***Id.*** at 315-16.

Here, DEFENDANT was only subject to interrogation for the portion of the traffic stop after he was placed into handcuffs and put into the patrol car. DEFENDANT was initially stopped by MOSER for a routine traffic stop due to expired inspection stickers. **06-11-25 N.T. 8.** Upon reaching the vehicle, MOSER discovered DEFENDANT was displaying symptoms of potential drug use² and that there was a possibility of drug paraphernalia inside the vehicle³. MOSER asked DEFENDANT about the lock boxes and Crown Royal bags that MOSER observed. **06-11-25 N.T. 16-17.** After DEFENDANT's admission that the boxes contained methadone, MOSER requested to search DEFENDANT's vehicle. *Id.* DEFENDANT declined. **06-11-25 N.T. 17.** Next, MOSER decided to ask DEFENDANT to step out of the vehicle. **06-11-25 N.T. 19.** At that point, DEFENDANT was still not in MOSER's custody.

When DEFENDANT exited his vehicle, MOSER observed a metal tube that DEFENDANT dropped (furthering MOSER's suspicions regarding drug paraphernalia) and informed DEFENDANT that a K-9 unit would be coming. **06-11-25 N.T. 19-20.** While talking with DEFENDANT about whether the K-9 unit would alert on anything, DEFENDANT **voluntarily stated** he sometimes gave rides to people from the methadone clinic where he allegedly got the methadone in the lock boxes from. **06-11-25 N.T. 20.**

² MOSER described DEFENDANT as "overly talkative and jittery, quick responses to my questions, just overall elevated." **06-11-25 N.T. 11.**

³ MOSER testified when he walked to the passenger side of the vehicle, he observed "two metal lock boxes that were on the passenger side of his car, as well as some Crown Royal bags, purple velvet Crown Royal bags which were in the vehicle." "I began -- well I took mental note of those that they are unusual to me and indicative of the possible presence of drugs inside the vehicle." **06-11-25 N.T. 15-16.**

DEFENDANT continued to deny there was any drugs or drug paraphernalia in the vehicle but was upset at the situation. **06-11-25 N.T. 21**. While the parties continued to wait on the K-9 unit's arrival, DEFENDANT uttered "search the f***** thing." *Id.*

Prior to the K-9 unit arriving, DEFENDANT retrieved one of the lock boxes and a lanyard from his vehicle that had the lockbox keys on it. **06-11-25 N.T. 22**. MOSER noticed what looked to be pills inside the container attached to DEFENDANT's lanyard. **06-11-25 N.T. 24**. When questioned about it, DEFENDANT decided to (without being asked) open the pill bottle and dump the contents onto the ground. *Id.* MOSER and the K-9 officer determined the contents looked like crack cocaine. *Id.* At that point, DEFENDANT was placed into police custody by being put into handcuffs.

Prior to the placement of handcuffs, ***Miranda*** warnings were not necessary for any statements made by DEFENDANT as he was in investigative detention, not in a custodial interrogation. DEFENDANT was never physically restrained prior to his arrest, the traffic stop occurred on a public roadway and neither MOSER, nor the K-9 officer, displayed a weapon. Although the stop was more lengthy than normal, DEFENDANT prolonged it by failing to provide his insurance details and by acting in an angry – and potentially aggressive/dangerous – manner.

DEFENDANT was only placed under arrest once the crack cocaine was spilled out onto the roadway. The officers should have ***Mirandized*** DEFENDANT then as it was clear the episode was leading to an arrest, but

they did not. Therefore, DEFENDANT's statements prior to the spilling of the crack cocaine will be admissible, while his statements after the contraband was spilled will be inadmissible.

B. Investigative Detention

The issue that troubles us more than the above is DEFENDANT's argument that MOSER lacked justification to request a K-9 unit. We begin our analysis of this salient issue by articulating the axiom that police need not possess probable cause to detain an individual for an investigation. Under Pennsylvania law, only "reasonable suspicion" of criminality is required. See, e.g., **Spence**, *supra*, at 314 citing *Commonwealth v. Jones*, 874 A.2d 108, 116 (Pa. Super. 2005).

"Reasonable suspicion" occurs when an officer combines his current observations with his prior experiences to reasonably conclude that there is criminal activity present and that the person whom he stopped is involved in that activity. See, **Commonwealth v. Kemp**, 961 A.2d 1247, 1255 (Pa. Super. 2016). In **Kemp**, the appellant and his accomplice were convicted of possession of a controlled substance, intent to deliver, and conspiracy after an initial traffic stop continued into questioning and ultimately a discovery of twenty-three (23) pounds of marijuana. *Id.* at 1250-52. Appellant argued that the officer conducting the traffic stop required reasonable suspicion to continue the stop and question the appellant. *Id.* at 1252. The arresting

officer cited multiple factors that made him believe there was drugs in the vehicle:

1. The trooper was overpowered by the scent of air fresheners upon his initial approach to the vehicle.
2. He then observed many air fresheners inside the vehicle and, based on his prior experience, he knew air fresheners were frequently used to cover up the smell of drugs.
3. The trooper observed the driver as “extremely nervous.”
4. Appellant and the driver were operating a third-party vehicle, something common for drug couriers.
5. Appellant failed to provide the name of the owner of the vehicle.
6. The trooper smelled the odor of marijuana. *Id.* at 1254.

To determine whether reasonable suspicion occurred, a totality of the circumstances test is applied. *Id.* at 1255 citing *In re D.M.*, 781 A.2d 1161, 1163 (Pa. 2001). The Superior Court found these facts sufficient to conclude the trooper had “reasonable suspicion to support an investigatory detention of [the driver] and [a]ppellant.” *Id.* at 1254.

At the hearing on June 11, 2025, we asked MOSER to identify all reasons why he believed he had reasonable suspicion to request the services of a K-9 unit. He cited the following:

- (1) DEFENDANT’s mannerisms were suspicious. He was nervous and overly talkative.

- (2) MOSER observed two Crown Royal bags inside the vehicle. He testified "Every time I have seen a Crown Royal bag in a car, it had drugs inside."
- (3) MOSER saw two lock boxes that are not typically observed in a vehicle. MOSER testified that his experience and training led him to suspect that drugs may be located inside the lock boxes.
- (4) DEFENDANT provided inconsistent information about his travel destination. Providing inconsistent information to police is a suspicious act.
- (5) DEFENDANT acknowledged that he was a methadone patient. This indicated to MOSER that DEFENDANT had been, or was at the time, a user of drugs.
- (6) DEFENDANT was evasive and asked for "breaks" on several occasions. MOSER felt that this behavior was not consistent with someone who was merely worried about a vehicle that needed to be repaired.

DEFENDANT's actions, not MOSER's, prolonged the stop by DEFENDANT attempting to produce his insurance card on his phone for roughly ten (10) minutes. Like **Kemp**, we find MOSER's testimony provides more than enough evidence that there was reasonable suspicion that DEFENDANT was conducting an unlawful activity and thus supports his decision to request a K-9 unit.

III. CONCLUSION

This case presents us with a situation where we must determine the legality of an investigative detention stemming from a routine traffic stop. The defense contends MOSER did not have the requisite "totality of circumstances" to investigate the possibility of drugs inside the vehicle nor his decision to request a K-9 unit to sniff the vehicle.

We conclude that MOSER possessed the requisite "reasonable suspicion" necessary to request a K-9 unit. Therefore, we will not suppress all evidence discovered by MOSER following the traffic stop. However, we will grant DEFENDANT's suppression motion as it relates to statements made by the DEFENDANT after he was placed in handcuffs. All comments made by DEFENDANT prior to the crack cocaine spilling on the ground shall be admitted as there was no indication the traffic stop was leading to an arrest. All statements made by DEFENDANT after the crack cocaine was on the ground shall not be admissible. MOSER and/or the K-9 officer should have properly Mirandized DEFENDANT as one can reasonably conclude the presence of the drugs would lead to an arrest of DEFENDANT. Therefore, we will grant in part and deny in part DEFENDANT's motion to suppress.