

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA	: NO. 01-10,158
	:
	:
vs.	: CRIMINAL DIVISION
	: Habeas Corpus
KENNETH C. KEIFER,	:
Defendant	:

OPINION AND ORDER

Defendant has been charged with driving under the influence of alcohol to a degree which rendered him incapable of safe driving and two (2) summary Vehicle Code Violations. After a preliminary hearing, Defendant was held for Court on all charges. Defendant filed the instant Petition for Writ of Habeas Corpus on March 13, 2001 and argument thereon was held April 30, 2001.

Defendant contends the evidence presented at the preliminary hearing was insufficient to support the charge of driving under the influence of alcohol to a degree which rendered him incapable of safe driving. The Court does not agree. The Commonwealth presented evidence that Defendant was observed by the officer failing to stop at a stop sign and upon being stopped by the officer, that he had an odor of alcohol on his breath and acknowledged that he had consumed beer prior to driving. Further, the officer gave his opinion that Defendant failed the standard field sobriety test and in his opinion, Defendant was incapable of safe driving due to the influence of alcohol. This evidence is sufficient to find a prima facie case of driving under the influence of alcohol to a degree which renders a person incapable of safe driving.

ORDER

AND NOW, this 4<sup>th</sup> day of May, 2001, for the foregoing reasons, Defendant's Petition for Writ of Habeas Corpus is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA  
Jack Felix, Esq.  
Gary Weber, Esq.  
Hon. Dudley N. Anderson