

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

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
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	:	<b>CR-217-2024</b>
	:	
vs.	:	
	:	
<b>JOSHUA B. GRESH,</b>	:	<b>MOTION TO SUPPRESS</b>
<b>Defendant</b>	:	

**OPINION**

This matter is before the Court on Defendant’s Motion to Suppress filed on April 22, 2024. A hearing was held on June 25, 2024, at which time the Defendant was present and represented by Taylor Paulhamus, Esquire, and Eric Birth, Esquire, appeared on behalf of the Commonwealth.

Joshua Gresh (“Defendant”) was charged on November 29, 2023 with DUI: General Impairment – Incapable of Safe Driving<sup>1</sup> (M); DUI: High Rate of Alcohol<sup>2</sup> (M); Careless Driving<sup>3</sup> (S); Maximum Speed Limits – 55 MPH by 39 MPH<sup>4</sup> (S); and Driving Vehicle at Safe Speed<sup>5</sup> (S). A preliminary hearing was held on January 29, 2024, at which time all charges were bound for trial. Defendant waived his arraignment which was scheduled for March 4, 2024, and requested a pretrial date. An Order extending the time to file a Pretrial Omnibus Motion was filed on April 4, 2024, extending the deadline to May 1, 2024. The instant Motion to Suppress was timely filed on April 22, 2024, alleging the vehicle stop was

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1 75 Pa.C.S.A §3802(a)(1)  
2 75 Pa.C.S.A. §3802(b)  
3 75 Pa.C.S.A. §3714(a)  
4 75 Pa.C.S.A. §3362(a)(2)  
5 75 Pa.C.S.A. §3361

not supported by reasonable suspicion, and requesting that the Court suppress all evidence seized and statements made as a result of the illegal stop and detention.

At the hearing on the Motion to Suppress, the Commonwealth called Nicklaus Coulston (“Coulston”), a Pennsylvania State Trooper since January of 2020. Coulston testified that he has experience, but no specialized training, in handheld radar devices and surveilling vehicles travelling at high rates of speed. In the early morning hours of October 14, 2023, Coulston was on duty in a marked patrol car sitting stationary on Interstate 180 in Lycoming County parallel with the travel lanes facing westbound and monitoring the eastbound traffic. The Commonwealth introduced a Google Maps depiction of the area as Exhibit #1, which was admitted into evidence. Coulston testified that a vehicle approached that he observed to be traveling at a high rate of speed even before it entered the radar’s zone of influence. When detected by the radar, the speed displayed was 94 MPH in a properly posted 55 MPH. Coulston testified that at that point he handed the radar to his partner, turned on the headlights, and put the car in drive. As he did so, he caught a glimpse of a silver SUV as it passed him traveling eastbound at a high rate of speed. Coulston testified that he could not see the license plate, make, or model of the vehicle but there were no other vehicles on the road as it was approximately 3:00 a.m.

As Coulston began his pursuit of the silver SUV, he saw the vehicle’s taillights activate around the Warrensville Road exit of I-180. On cross examination, he testified that he did not see the vehicle take the exit, only that it slowed down around the exit. Coulston further testified that as he went past the Warrensville Road exit, he spotted a vehicle traveling toward Montoursville from the direction of the Warrensville Road exit. He then

took the Third Street exit ramp but made a left turn towards Montoursville. At that time, Coulston momentarily could no longer see the silver SUV's taillights until his patrol vehicle straightened out from the turn, at which time he observed the running lights on the back of the silver SUV in the same direction of travel. Although Coulston acknowledged on cross examination that there are other roads that feed into Broad Street in Montoursville, where he ultimately caught up to the Defendant's vehicle, he testified that he did not observe any other cars, with the exception of one other vehicle shown in his patrol vehicle's MVR – a truck traveling down Broad Street in the opposite direction of the silver SUV and patrol vehicle. When Coulston caught up to the silver SUV, the vehicle pulled into the M&T Bank parking lot, where the Defendant was identified as the driver and Coulston observed him to be exhibiting signs of impairment. The Defendant agreed to submit to Standard Field Sobriety Testing during which he showed numerous signs of impairment. According to the Affidavit of Probable Cause, the Defendant made statements concerning the consumption of alcoholic beverages and was taken into custody for suspicion of DUI of alcohol, taken to UPMC, read the DL-26B verbatim and submitted to chemical testing. Lab reports showed his BAC to be 0.146%, which resulted in the present charges.

Pursuant to 75 Pa.C.S.A. §6308(b), “[w]hen 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.” The Supreme Court of Pennsylvania has defined reasonable suspicion as follows:

Reasonable suspicion is a less stringent standard than probable cause necessary to effectuate a warrantless arrest, and depends on the information possessed by police and its degree of reliability in the totality of the circumstances. In order to justify the seizure, *a police officer must be able to point to “specific and articulable facts” leading him to suspect criminal activity is afoot. Commonwealth v. Melendez, 676 A.2d 226, 228 (1996) (citing Terry v. Ohio, 392 U.S. 1, 21 (1968)).* In assessing the totality of the circumstances, courts must also afford due weight to the specific, reasonable inferences drawn from the facts in light of the officer's experience and acknowledge that innocent facts, when considered collectively, may permit the investigative detention. *Commonwealth v. Cook, 735 A.2d 673, 676 (Pa. 1999) (citations omitted).*

*Commonwealth v. Holmes, 14 A.3d 89, 95 (Pa. 2011).* “The determination of whether an officer had reasonable suspicion that criminality was afoot so as to justify an investigatory detention is an objective one, which must be considered in light of the totality of the circumstances.” *Id.*

The Defendant argues that Coulston did not have reasonable suspicion that the silver SUV he pulled over violated the Motor Vehicle Code, because the description of a silver SUV is very generic, Coulston briefly lost sight of the actual vehicle that passed him, and the silver SUV that passed him was clocked at 94 MPH so Coulston was unable to identify a make, model or the license plate number of the vehicle. Additionally, Defendant argues that Coulston did not actually observe him exit the highway and there are many roads that feed into Broad Street in Montoursville so Coulston would not have been able to determine that the vehicle he pulled over was the same vehicle he saw speeding. The Commonwealth contends that the traffic stop was valid, supported by reasonable suspicion, and the evidence

obtained and statements made by the Defendant as a result of the stop and detention should not be suppressed.

The Court finds, in light of the totality of the circumstances, that Coulston was able to point to “specific and articulable facts” which led him to reasonably believe a violation of the Motor Vehicle Code had occurred by the Defendant. Coulston testified that his radar clocked a vehicle – the only vehicle in the radar’s zone of influence – pass him at 94 MPH in a well-marked 55 MPH zone, and that he was able to discern that it was a silver SUV. While the Defendant may argue this description is “generic,” Coulston testified that the incident occurred at approximately 3:00 a.m. and there were no other cars on the road. Similarly, Coulston exited the highway based on his observation of the silver SUV’s taillights activating near the exit, and despite losing sight of the silver SUV for a brief moment he soon saw the running lights of a silver SUV in the same direction of travel. Coulston’s MVR camera detected only one other vehicle, traveling in the opposite direction, which did not match the description of the vehicle he observed speeding. This Court finds that the facts articulated by Coulston, along with the reasonable inferences drawn from those facts in light of the Coulston’s experience gave rise to reasonable suspicion that the Defendant committed a violation of the Motor Vehicle Code. Therefore, the investigative detention was permitted and the evidence seized and statements made as a result of the stop shall not be suppressed.

Accordingly, the Court will enter the following Order.

**ORDER**

**AND NOW**, this **22<sup>nd</sup>** day of **July, 2024**, upon consideration of Defendant's Motion to Suppress, the argument of counsel on June 25, 2024, and for the reasons set forth above, the Motion to Suppress is **DENIED**.

By the Court,

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Ryan M. Tira, Judge

RMT/jel

CC: DA – Eric Birth, Esq.  
PD – Taylor Paulhamus, Esq.  
Gary Weber, Esq.  
Jennifer E. Linn, Esquire