

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, : CR-1652-2024
 :
 vs. :
 :
 JASON GARG, :
 :
 Defendant. : Omnibus Pretrial Motion

OPINION AND ORDER

This matter came before the Court for an evidentiary hearing on March 4, 2025, on the Defendant’s Omnibus Pretrial Motion, filed February 6, 2025 (hereinafter the “Motion”). The gravamen of that Motion are Defendant’s contentions that the Williamsport Bureau of Police officer who detained, and later searched, the Defendant lacked probable cause to do so.

At the hearing on the Motion, the Commonwealth presented the testimony of Officer Gino V. Caschera. Officer Caschera testified that, on June 26, 2024, he received information from other officers who were conducting an ongoing drug investigation, that those officers had just arrested two individuals named Robert Watkins and Aaliyah Empson for drug trafficking at a residence in the 1200 block of Isabella Street, Williamsport, Lycoming County, Pennsylvania. Further, those officers advised Officer Caschera that they just observed a blue Xterra vehicle stop at that residence. Officer Caschera located the blue Xterra vehicle, which was being operated by Jason Garg (hereinafter the “Defendant”). Officer Caschera confirmed that the Defendant’s license to operate a motor vehicle was under suspension.

Officer Caschera stopped the blue Xterra operated by the Defendant, and confirmed through another check that the Defendant’s license was under suspension. Officer Caschera asked the Defendant to consent to a search of his vehicle. The Defendant did not consent to a search, but admitted that he was recently at the residence of Aaliyah Empson, to drop her off. Based upon the fact that the Defendant was just at the residence of Aaliyah Empson, and based upon the fact that Aaliyah was very recently arrested for drug trafficking at that residence, Officer Caschera requested a canine sniff of the Defendant’s vehicle. The canine alerted, which caused Officer Caschera to conclude that the vehicle contained evidence of possession of

a controlled substance. Officer Caschera impounded the vehicle, secured a search warrant, searched the vehicle, and seized a metal crack pipe.

On cross examination, Officer Caschera admitted that he saw no drugs or drug paraphernalia on Defendant's person or in his car, prior to requesting the canine sniff.

ISSUES PRESENTED:

1. WHETHER OFFICER CASCHERA HAD A REASONABLE BASIS FOR STOPPING THE DEFENDANT'S VEHICLE.
2. WHETHER OFFICER CASCHERA HAD A REASONABLE BASIS FOR CONDUCTING A CANINE SNIFF OF THE DEFENDANT'S VEHICLE.

RESPONSE TO ISSUES PRESENTED:

1. OFFICER CASCHERA HAD A REASONABLE BASIS FOR STOPPING THE DEFENDANT'S VEHICLE.
2. OFFICER CASCHERA DID NOT HAVE A REASONABLE BASIS FOR CONDUCTING A CANINE SNIFF OF THE DEFENDANT'S VEHICLE.

DISCUSSION:

1. OFFICER CASCHERA HAD A REASONABLE BASIS FOR STOPPING THE DEFENDANT'S VEHICLE

Section 6308(b) of the Pennsylvania Vehicle Code provides as follows:

Whenever a police officer . . . has a 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. CONS. STAT. § 6308(b).

75 Pa. C.S. § 1543—Driving while operating privilege is suspended or revoked—provides, in part, that a person who drives a motor vehicle with a suspended license is in

violation of the provisions within this section. 75 PA. CONS. STAT. § 1543, *abrogated on other grounds*. Further, as opined by our Superior Court in *Commonwealth v. Garcia*, “[a]n officer may always stop a vehicle if the officer has probable cause to believe that the vehicle or its driver was violating the Vehicle Code.” *Commonwealth v. Garcia*, 311 A.3d 1138, 1144-45 (Pa. Super. Ct. 2024) (internal citation omitted).

It is undisputed that the Defendant’s license on June 26, 2024, was under suspension. For that reason, Officer Caschera was justified in stopping the vehicle for the purposes outlined in 75 Pa.C.S. § 6308(b).

2. OFFICER CASCHERA DID NOT HAVE A REASONABLE BASIS FOR CONDUCTING A CANINE SEARCH OF THE DEFENDANT’S VEHICLE

Although a canine “sniff” is a search, it need not be supported by probable cause. *See Commonwealth v. Rogers*, 849 A.2d 1185, 1190 (Pa. 2004) (“[W]e held that there need not be probable cause to conduct a canine search of a place; rather, the police need merely have reasonable suspicion for believing that narcotics would be found in the place subject to the canine sniff.”) (internal citation omitted). Since a search of that nature “[i]s inherently less intrusive upon an individual’s privacy than other searches[,]” it need only be supported by a reasonable suspicion that controlled substances will be found in the place subject to the canine sniff. *Id.* Moreover, the *Rogers* Court opined the following on reasonable suspicion:

“This standard, less stringent than probable cause, is commonly known as reasonable suspicion.” *Id.* In order to determine whether the police officer had reasonable suspicion, the totality of the circumstances must be considered. *In re D.M.*, 566 Pa. 445, 781 A.2d 1161, 1163 (2001). In making this determination, we must give “due weight ... to the specific reasonable inferences [the police officer] is entitled to draw from the facts in light of his experience.” *Cook*, 735 A.2d at 676 (quoting *Terry v. Ohio*, 392 U.S. 1, 27, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)). Also, the totality of the circumstances test does not limit our inquiry to an examination of only those facts that clearly indicate criminal conduct. Rather, “[e]ven a combination of innocent facts, when taken together, may warrant further investigation by the police officer.” *Cook*, 735 A.2d at 676.

849 A.2d at 1189; *Commonwealth v. Holmes*, 14 A.3d 89, 96 (Pa. 2011) (internal citations omitted) (“It is the duty of the suppression court to independently evaluate whether, under the particular facts of a case, an objectively reasonable police officer would have reasonably suspected criminal activity was afoot.”); *see generally Commonwealth v. Jefferson*, 256 A.3d 1242, 1248 (Pa. Super. Ct. 2021) (citing *United States v. Sokolow*, 490 U.S. 1, 7 (1989)) (“While reasonable suspicion is a less stringent standard than probable cause, the detaining officer ‘must be able to articulate something more than an inchoate and unparticularized suspicion or hunch.’”).

In *Rogers*, a Pennsylvania State Trooper conducted a traffic stop on the defendant, who was driving over the speed limit and had an expired registration plate on his vehicle. 849 A.2d at 1187. During the traffic stop, the trooper observed that the defendant was extremely nervous (so nervous, in fact, that the defendant was “trembling” and had trouble retrieving his documents for the trooper’s inspection), that the documents produced by the defendant were “incomplete or plainly false”, that the defendant was unable to recall the address from which he had just departed, and that there were open boxes of “laundry supplies” and “packaging tape” in the back seat of the vehicle—items, according to the trooper’s experience from investigating drug offenses, that were “[c]ommonly used in the packaging and distribution of control substances.” *Id.* at 1187-90 (footnotes omitted). Based on his observations, the trooper asked the defendant to exit the vehicle and consent to a search of the vehicle. *Id.* at 1188. The defendant refused to consent to a search, at which the trooper requested—via radio—a criminal history check of the defendant. *Id.* The trooper then learned that the defendant had a prior drug conviction, at which the trooper detained the defendant and requested the deployment of a canine unit. *Id.* On appeal, our Supreme Court affirmed the Superior Court’s decision, opining that “[t]hese facts, taken in their totality, lead to a conclusion that [the trooper] had reasonable suspicion to suspect that criminal activity was afoot.” *Id.* at 1190.

Here, Officer Caschera testified that, on June 26, 2024, he received information from other officers who were conducting an ongoing drug investigation, that those officers had just arrested two individuals named Robert Watkins and Aaliyah Empson for drug trafficking at a residence in the 1200 block of Isabella Street, Williamsport, Lycoming County, Pennsylvania. Further, those officers advised Officer Caschera that they just observed a blue Xterra vehicle stop at that residence. Officer Caschera located the blue Xterra vehicle, which was being

operated by the Defendant, and confirmed that the Defendant’s license to operate a motor vehicle was under suspension. Similar to the initial facts in *Rogers*, Officer Caschera initiated a traffic stop of the blue Xterra operated by the Defendant based on an initial traffic violation. Officer Caschera then asked the Defendant to consent to a search of his vehicle. The Defendant did not consent to a search, but admitted that he was recently at the residence of Aaliyah Empson, to drop her off. Unlike the facts in *Rogers*—where the trooper drew inferences from observing a variety of facts and circumstances indicating criminal conduct, prior to requesting a canine unit—Officer Caschera then requested a canine search of the Defendant’s vehicle based primarily upon the fact that the Defendant was just at the residence of Aaliyah Empson, and that Aaliyah was very recently arrested for drug trafficking at that residence. Moreover, Officer Caschera admitted that he saw no drugs or drug paraphernalia on Defendant’s person or in his car prior to the canine search.

The Court notes that “[i]t is the duty of the suppression court to independently evaluate whether, under the particular facts of a case, an objectively reasonable police officer would have reasonably suspected criminal activity was afoot.” 14 A.3d at 96 (internal citations omitted); *see* 256 A.3d at 1248 (citing *United States v. Sokolow*, 490 U.S. 1, 7 (1989)) (“While reasonable suspicion is a less stringent standard than probable cause, the detaining officer ‘must be able to articulate something more than an inchoate and unparticularized suspicion or hunch.’”); *see also* *Commonwealth v. Owens*, 2023 WL 4346820, *4 (Pa. Super. Ct. 2023) (unpublished memorandum) (footnote omitted) (“We agree with the legal conclusion of the trial court that smoking a cigar, driving a rental car, and not knowing a passenger's exact age did not create a reasonable suspicion that Appellee was engaged in criminal activity.”); *cf.* *Commonwealth v. Brinson*, 328 A.3d 1096, 1106 (Pa. Super. Ct. 2024) (footnote omitted) (citing *Commonwealth v. Cartagena*, 63 A.3d 294, 305 (Pa. Super. Ct. 2013)) (“[W]e agree with the suppression court that [the officer] lacked reasonable suspicion to extend the stop and request a K-9 unit solely because [the passenger] and [the driver] seemed nervous.”).

For the reasons discussed above, the Court finds that under the bare facts here, an objectively reasonable police officer would not have reasonably suspected criminal activity was afoot, and, therefore, Officer Caschera did not have a reasonable basis for conducting a canine search of the Defendant's vehicle.

ORDER

AND NOW, this 17th of March, 2025, for the reasons more fully set forth above, Defendant's Omnibus Pretrial Motion (filed February 6, 2025) is **GRANTED**, and all evidence obtained from the Defendant's vehicle is suppressed from introduction into evidence.

BY THE COURT,

William P. Carlucci, Judge

WPC/aml

cc: Court Administrator
Lycoming County District Attorney's Office (JF)
Lycoming County Public Defender's Office (GD)