

**[J-133-2005]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

**CAPPY, C.J., CASTILLE, NEWMAN, SAYLOR, EAKIN, BAER, JJ.**

MYRA J. MARTIN,	:	100 MAP 2005
	:	
Appellant	:	Appeal from the Order of the
	:	Commonwealth Court entered on March
	:	18, 2005, at 1255 C.D. 2004, reversing the
v.	:	Order of the Court of Common Pleas of
	:	Cumberland County entered on June 2,
	:	2004, at 04-0212.
COMMONWEALTH OF PENNSYLVANIA,	:	
DEPARTMENT OF TRANSPORTATION,	:	870 A.2d 982 (Pa. Cmwlth. 2005)
BUREAU OF DRIVER LICENSING,	:	
	:	
Appellee	:	ARGUED: December 5, 2005

**CONCURRING OPINION**

**MR. JUSTICE EAKIN**

**DECIDED: August 22, 2006**

Since the issue of whether Officer Sollenberger had probable cause to believe appellant was speeding in his jurisdiction was not before this Court, I join the majority's decision to reverse the Commonwealth Court's order. See Martin v. Commonwealth, Department of Transportation, Bureau of Driver Licensing, 882 A.2d 1001, 1002 (Pa. 2005) (allocatur granted on issue of "[W]hether a municipal police officer has authority under ... 42 Pa.C.S. § 8951 et seq., to conduct an extraterritorial arrest of a motorist or implement the Implied Consent Law where the officer has no grounds for arrest or probable cause in the officer's own jurisdiction but grounds for arrest arise after the officer leaves his jurisdiction in pursuit of the motorist.").

I write separately to note, in my view, Officer Sollenberger had probable cause to believe appellant was speeding in his jurisdiction. He testified he saw appellant traveling at a high rate of speed in his jurisdiction; he followed appellant for a steady distance in his jurisdiction, where he clocked appellant with his speedometer as traveling at 53 miles-per-hour in a 40 mile-per-hour speed limit zone. N.T. Trial Court Hearing, 5/26/04, at 22-23. There may have ultimately been insufficient evidence to convict appellant for speeding since Officer Sollenberger did not determine her speed on his speedometer for three-tenths of a mile. See 75 Pa.C.S. § 3368(a); Commonwealth v. Cohen, 605 A.2d 814, 817 (Pa. Super. 1992). However, “an actual violation of the [Motor Vehicle Code] need not ultimately be established to validate a vehicle stop, a police officer must have a reasonable and articulable belief that a vehicle or driver is in violation of the [Code] in order to lawfully stop the vehicle.” Commonwealth v. Snell, 811 A.2d 581, 584 (Pa. Super. 2002).<sup>1</sup>

The question is not whether the officer could prove a case of speeding; validity of a stop is never evaluated by the ultimate conviction or acquittal. Of course appellant was exceeding the posted limit--the officer clocked her, and thus had articulable and reasonable belief in the violation. Officer Sollenberger possessed probable cause to believe appellant was speeding in his jurisdiction; thus, he could have continued pursuit and stopped appellant’s vehicle outside his jurisdiction. See 42 Pa.C.S. § 8953(a)(2).

Madame Justice Newmans joins this concurring opinion.

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<sup>1</sup> Effective February 1, 2004, the General Assembly “lowered the quantum of cause an officer must possess from ‘articulable and reasonable grounds’ [which is equivalent to probable cause] to ‘reasonable suspicion’” to conduct a vehicle stop. 75 Pa.C.S. § 6308(b); Commonwealth v. Cook, 865 A.2d 869, 873 n.1 (Pa. Super. 2004) (emphasis in original).