

[J-116-98; MO: Newman, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	179 M.D. Appeal Docket 1997
	:	
Appellee	:	Appeal from the Order of the Superior
	:	Court entered June 18, 1997 at No.
	:	2429PHL96 affirming the Judgment of
v.	:	Sentence of the Court of Common Pleas
	:	of Lancaster County entered June 28,
	:	1996 at No. 2616 of 1995
FREDERICK W. PETROLL,	:	
	:	
Appellant	:	ARGUED: April 30, 1998
	:	
	:	
	:	

CONCURRING OPINION

MR. JUSTICE CASTILLE

DECIDED: JULY 22, 1999

The majority holds that the trial court erred in admitting the driver's logbook, a bank bag containing toll receipts and a bag containing shipping invoices taken from a wrecked tractor trailer on a state highway at an accident scene because the search was unreasonable and not justified under any exception to the warrant requirement for search and seizure. I disagree that the trial court erred in admitting these items, but I concur in the majority's affirmance of the Superior Court's decision on different grounds.

The majority's conclusion that the search here was unlawful strains logic. Section 4704(a)(3) of the Motor Vehicle Code, 75 Pa.C.S. § 4704(a)(3), clearly authorizes a police officer who has probable cause to believe that a vehicle or driver is unsafe to inspect the

vehicle, driver or required documents. The majority would have this authority extend only to the prevention of future harm but not to the investigation of harm which has already occurred. A reading of section 4704(a)(3) which requires that the harm has not yet come to pass is hypertechnical at best. In the case sub judice, the police officers arrived at the scene of a horrific traffic accident with a family of three burned beyond recognition. Based upon their observations of the accident scene (the lack of significant skid marks prior to the point of impact) and the statements of witnesses to the accident, the responding officers clearly had probable cause to believe that the truck and driver involved were unsafe. Thus, they were permitted, under section 4704(a)(3), to inspect the truck's documents.

Section 6308(b) of the Motor Vehicle Code, 75 Pa.C.S. § 6308(b), also permits a police officer to inspect information necessary to enforce the provisions of the Code where the officer has reasonable grounds to suspect a violation of the Code. It is hard to fathom more reasonable grounds to suspect a violation than the gruesome scene that greeted the officers investigating this accident. Thus, section 6308(b) provides further justification for the search which revealed the logbook and bags.

Both section 4703(a)(3) and section 6308 allow the inspection of logbooks and other documents under circumstances far less extreme than those present in the instant case. Therefore, it is non-sensical that these sections would prevent the inspection of these same documents after an accident has occurred. An accident should not, of itself, invoke a heightened privacy interest simply by virtue of its occurrence even if, by chance, criminal charges may be lodged. Public safety is the overriding interest at stake on public highways in this Commonwealth. Accordingly, commercial vehicle operators traveling the state's highways have a limited expectation of privacy in the required documents that the majority now suppresses. The legislature has determined that the overriding concern for public safety is best served by permitting the inspection of logbooks and other documents

required to be kept by commercial haulers without a warrant either before or after an accident, and I believe that the trial court properly admitted the evidence.