

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE**

WILMINGTON, DELAWARE 19801

John K. Welch
Judge

November 20, 2009

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Re: *State of Delaware v. Mary L. DeMeglio*
Case No.: 0711034364

Date Submitted: October 29, 2009

Date Decided: November 20, 2009

**MEMORANDUM OPINION ON
STATE'S MOTION TO SUPPRESS**

Dear Counsel:

A hearing was held on Mary L. DeMeglio's ("Defendant") Motion to Suppress (the "Motion") on Friday, October 30, 2009 in the Court of Common Pleas, New Castle County, State of Delaware. Following the receipt of documentary evidence and sworn testimony the Court ordered the parties to submit legal memoranda regarding the limited issue as to whether the Delaware Police Investigation in Pennsylvania should be suppressed because a Delaware Police Officer initiated an alleged unlawful arrest outside the State of Delaware. The balance of defendant's Motion was withdrawn before the conclusion of the suppression hearing. This is the Court's Final Decision and Order after review of the submissions by counsel.

I. The Facts.

Trooper Christopher Holzwarth (“Trooper Holzwarth”) presented testimony at the Suppression Hearing. Trooper Holzwarth is employed by the Delaware State Police at Troop 9 for the past three (3) years. His duties involve handling law enforcement, criminal and traffic complaints and enforcement of these laws in Delaware. On November 29, 2007 he was employed in that capacity and was on routine patrol when he responded to the scene of a motor vehicle accident on Naamans Rd. in New Castle County, Delaware. Upon arrival at the scene of the collision, Trooper Holzwarth contacted the operator of one of the vehicles involved in the accident as well as an independent witness. The independent witness had observed the accident and had stopped to assist the colliding parties. The witness was able to describe in detail the fleeing vehicle as well as the damage it sustained in the collision. The witness was also able to provide Trooper Holzwarth with registration plate information of the fleeing vehicle as well as a description of the defendant.

Once the scene of the collision was secured Trooper Holzwarth proceeded to enter the vehicle information into a National Crime Information Center database. The search revealed that that the registration plate belonged to a 1992 Oldsmobile 88 Royale and that the vehicle was registered to Mary DeMeglio, the defendant. The defendant’s address listed as 140 B Jones Drive, Boothwyn, Pennsylvania. Trooper Holzwarth proceeded to contact the Pennsylvania State Police and requested them to dispatch the appropriate law enforcement agency to the defendant’s residence.

Officer Busam of Lower Chichester Township Police responded to the defendant's residence and observed the suspect vehicle as described by the witness. Officer Busam was able to corroborate the witness's observation of the damage to the vehicle as described by the witness. Trooper Holzwarth subsequently responded to the address where Officer Busam had already begun his investigation and had detained the defendant for Disorderly conduct and Driving Under the Influence of Alcohol.

Officers from the Lower Chichester Township Police were speaking to the defendant outside her residence when Trooper Holzwarth attempted to speak with the defendant. Trooper Holzwarth testified that his attempts at conversation were made while on the defendant's front yard which was adjacent to the parking lot of the defendant's residence. Trooper Holzwarth testified to the defendant being belligerent when questioned. The defendant denied that she was operating the vehicle and refused to answer any questions posed by Trooper Holzwarth about the collision. Another individual who was also at the defendant's residence indicated to the Trooper that he was in the car with the defendant at the time of collision. This individual initially tried to take the blame for operating the vehicle. However, the other individual then recanted and was able to provide the officer with more information. This individual admitted that Defendant was indeed operating the motor vehicle at the time of the accident and that he was a passenger in the vehicle at the time.

As a result of the information obtained, Trooper Holzwarth generated a uniform traffic complaint and summons and provided it to the defendant while she

was detained by the Lower Chichester Police. Trooper Holzwarth candidly admitted that his jurisdiction was limited to geographic state of Delaware and that he was not chasing the suspect when he entered Pennsylvania.

II. The Parties Contentions.

a) The Defendant's Contention:

Defendant contends in his Opening Memorandum that absent statutory authority, “police officers cannot act outside of the territorial limits of the body from which they derive their authority.” (Opening Memorandum at 3). Defendant points to the language of 29 *Del. C.* § 101 where the General Assembly specifically provides that the sovereign limits of this State’s government extend only to the “places within the boundaries thereof ...” (See Opening Memorandum at 3). Defendant also contends that the Common similarly does not authorize out of state officers to act in Pennsylvania except under limited circumstances. Specifically, Pennsylvania authorizes out of state officers to act only where they enter Pennsylvania in “close pursuit of a person”. 42 *Pa. C. St.* § 8922. Defendant asserts that the officer’s candid testimony that he was not pursuing a suspect at the time he entered Pennsylvania supports their argument that his activities were unauthorized in this case.

b) State's Contention:

The State contends that Trooper Holzwarth was authorized to provide the defendant with a uniform traffic complaint and summons for her actions in Delaware. The State first cites 42 *Pa. C. St.* § 8922 which states that, “any peace officer of

another state who enters [the] Commonwealth in close pursuit of a person ... shall have the same authority to arrest and hold in custody such person ...” 42 *Pa. C. St.* § 8922. The State also relies on 11 *Del. C.* § 1907 for the proposition that when it is lawful for a peace officer to arrest without a warrant a person for a misdemeanor, the officer may give the person a written summons. 11 *Del. C.* §1907. The State also points to 21 *Del. C.* § 701 which indicates that a police officer may be authorized to arrest without a warrant at the scene of a motor vehicle accident when he has reasonable and probable cause to believe that a violation has been committed. 21 *Del. C.* § 701.

The State argues that in this case, Trooper Holzwarth continued his investigation and traveled to Pennsylvania in pursuit of the defendant who fled the scene of a motor vehicle accident. The State points out that although 21 *Del. C.* § 701 authorized Trooper Holzwarth to arrest the defendant at the scene of the collision he was unable to do so because she fled prior to his arrival. Nevertheless, the State argues that Trooper Holzwarth did not in fact detain or place the defendant under arrest upon arriving at her residence. Trooper Holzwarth merely arrived to conclude his investigation and provide the defendant with a citation and notice to appear in Delaware for the motor vehicle violations which had occurred in Delaware. As such, although Trooper Holzwarth did not immediately pursue the defendant his actions were within his authority because he did not detain or place the defendant under arrest.

III. The Law.

On a Motion to Suppress, the State bears the burden of establishing the search or seizure [of the defendant] comported with the rights guarded by the United States Constitution, the Delaware Constitution, or Delaware Statutory Law. The burden of proof on a Motion to Suppress is proof by a preponderance of the evidence. See, *Hunter v. State*, 878 A.2d 558, Del.Supr., No. 279, 2000, Steele, J. (Aug. 22, 2001)(Mem.Op at 5-6); *State v. Bien-Aime*, Del.Super., Lexis 132, Cr.A. No.: IK92-08-326, Tolliver, J. (March 17, 1993)(Mem.Op.).

IV. Discussion.

In the instant case it is clear that the State has proffered sufficient testimonial and documentary evidence that the Trooper was within his authority when he entered Pennsylvania to complete his investigation. Trooper Holzwarth testified at the hearing that after the scene of the collision was secured he proceeded to enter the vehicle information into a National Crime Information Center database. Trooper Holzwarth testified that his search revealed that the vehicle was registered to Defendant, and that he proceeded to contact the Pennsylvania State Police and requested them to dispatch the appropriate law enforcement agency to the defendant's residence. Trooper Holzwarth subsequently entered Pennsylvania and responded to Defendant's address where officers from the Lower Chichester Township Police had already begun his investigation and had detained the defendant. After his attempts to speak to Defendant were rebuffed, and as a result of the

information obtained at that point, Trooper Holzwarth generated a uniform traffic complaint and summons and provided it to the defendant while she was detained by the Lower Chichester Police.

The record indicates that throughout Trooper Holzwarth's investigation in Pennsylvania, the Lower Chichester Township Police were the controlling law enforcement agency and that they handled the detention and arrest of the defendant. Trooper Holzwarth arrived merely to conclude his investigation and issued a citation and notice to appear in a Delaware court for the motor vehicle violations which had occurred within Delaware. The Court notes that the procedure established by this legislation parallels other criminal citations, including motor vehicle violations and certain other misdemeanors. *See, 21 Del.C. § 703* (in establishing jurisdiction of motor vehicle offenses, the statute provides that, "the arresting officer may issue a summons to the person arrested for an appearance at a subsequent date before a justice of the peace, or ... a Judge of the Municipal Court). *See, 11 Del.C. § 1907* (where it is lawful for a peace officer to arrest without a warrant a person for a misdemeanor, he may give him a written summons, which directs the person to appear at the time and place indicated to stand trial).

V. Opinion And Order.

For all the reasons set forth herein, the Court hereby DENIES Defendant's Motion to Suppress that any and all evidence gathered by the police as a result of the

