

SUPERIOR COURT
OF THE
STATE OF DELAWARE

FRED S. SILVERMAN
JUDGE

NEW CASTLE COUNTY COURTHOUSE
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August 7, 2008

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Submitted: May 15, 2008
Decided: August 7, 2008

RE: *State v. Dougherty*, I.D. No. 0701002878
**Upon Appeal From the Court of Common Pleas – REVERSED and
REMANDED**

Dear Counsel:

On December 12, 2006, Defendant was stopped by a Delaware State Police trooper and charged with Driving Under the Influence.¹ The stop came after the trooper, late at night, witnessed Defendant's car collide with another car in a bar's parking lot and leave the scene.

Trial was scheduled for November 19, 2007, in the Court of Common

¹ 21 *Del. C.* § 4177.

Pleas. A hearing on Defendant's Motion to Suppress was held immediately before trial. The motion was granted. The State certified that the suppressed evidence was necessary to prosecute. This is the State's statutory appeal of the trial court's suppression order.²

The facts about Defendant's arrest are basic. The police officer was called to Tailgates Bar to deal with a disorderly person. He parked his patrol car in the bar's lot. Defendant's car was blocked by the police officer's car and another vehicle in the fire lane. At approximately 12:15 a.m., Defendant tried to leave the lot. As he maneuvered his vehicle, Defendant struck the car in the fire lane. The police officer heard the collision. After that, Defendant left the parking lot and he drove on to Route 4. The police officer followed and stopped Defendant about a half mile from the bar. The salient fact in the trial court's decision was that the police officer did not see Defendant do anything suspicious once Defendant made it to the open road.

Under 10 *Del. C.* § 9902 (b), the standard of review for appeals to this court from the Court of Common Pleas is *de novo* for legal determinations, and "clearly erroneous" for factual findings.³ If the trial court's factual findings are "sufficiently supported by the record and are the product of an orderly and logical deductive process, they must be accepted notwithstanding the fact that the Superior Court may have reached opposite conclusions."⁴

Delaware law requires a police officer to have at least a reasonable suspicion to stop and detain a vehicle.⁵ Considering the time of the night, that Defendant came out of the bar, that Defendant collided with another car, and that he left the scene, the police officer had reasonable grounds to stop and question Defendant.

² 10 *Del.C.* § 9902 (b).

³ See *State v. Arnold*, 2006 WL 488619 (Del. Super.); *State v. Karg*, 2001 WL 660014 (Del. Super.).

⁴ *State v. Karg*, 2001 WL 660014 (Del. Super.) (citing *State of Delaware v. High*, 1995 WL 314494 (Del. Super.) (citing *Levitt v. Bouvier*, 287 A.2d 671 (Del. 1972); *State v. Cagle*, 32 A.2d 140 (1974))).

⁵ *Id.* See *Delaware v. Prouse*, 440 U.S. 648 (1979).

The fact that the officer's suspicions were aroused by things observed while Defendant was on private property is unimportant. First, Defendant could have been stopped on suspicion of driving under the influence as soon as he hit the car in the bar's parking lot.⁶ Second, the officer had reasonable grounds to follow Defendant and stop him from leaving the scene of an accident,⁷ to obtain Defendant's license and insurance, as well as to look into Defendant's fitness to drive. Even if Defendant gave no sign of impaired driving while on the public road, the trooper had other reasons to suspect that Defendant was, nonetheless, driving while impaired. The fact that the officer did not cite Defendant for leaving the scene of an accident does not undermine the import of what happened in the parking lot.

For the foregoing reasons, the Court of Common Pleas November 19, 2007, order suppressing the evidence gathered after the traffic stop is **REVERSED** and the case is **REMANDED** for further proceedings consistent with this order.⁸

IT IS SO ORDERED.

Very Truly Yours,

/s/ Fred S. Silverman

p.c.: Criminal Prothonotary

⁶ See *State v. Hollobaugh*, 297 A.2d 395, 396 (Del. Super. 1972).

⁷ 21 Del. C. § 4201.

⁸ See 10 Del.C. § 9902 (c).

