

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

P.O. Box 746
COURTHOUSE
GEORGETOWN, DE 19947

March 29, 2004

Carole E.L. Davis, Esquire
114 E. Market Street
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RE: State of Delaware v. Stacy L. Brown-Bobak,
Def. ID# 0208006961

DATE SUBMITTED: December 22, 2003

Dear Counsel:

This is my decision on the State of Delaware's (the "State") appeal of a ruling by the Court of Common Pleas ("CCP") suppressing evidence in this traffic case. The CCP's ruling is reversed for the reasons set forth herein.

PROCEDURAL HISTORY

Selbyville Police Officer Timothy L. Lord ("Officer Lord") arrested Stacy L. Brown-Bobak ("Brown-Bobak") on August 12, 2002 and charged her with driving under the influence of alcohol in violation of 21 Del. C. § 4177(a), and making an unsafe lane change in violation of 21 Del. C. § 4122(1). The case proceeded in the CCP. Brown-Bobak filed a motion to suppress on August 21, 2002. The CCP held a hearing on April 14, 2003. At the end of the testimony, the

State nolle prossed the charge of making an unsafe lane change. The CCP, reasoning that Officer Lord did not have a reasonable articulable suspicion to stop Brown-Bobak's vehicle, suppressed all of the evidence acquired after Officer Lord stopped her vehicle. The State certified that the suppressed evidence was essential to the prosecution of the case, and then filed an appeal with this Court pursuant to 10 Del. C. § 9902(b).

DISCUSSION

The applicable standard of review for appeals from the CCP to the Superior Court is de novo for legal determinations and "clearly erroneous" for findings of fact. State v. High, Del. Super., C.A. No. 90-09-0243, Toliver, J. (March 7, 1995). If the factual findings of the court below 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." Id. Accord State v. Karg, Del. Super., Def. ID# 9911000194, Babiarz, J. (May 31, 2001).

Whether Officer Lord had a reasonable articulable suspicion to stop Brown-Bobak's vehicle is a mixed question of law and fact. Bloomingtondale v. State, 840 A.2d 641 (Del. 2004). Where there are no significant disputes over the factual issues, this Court reviews de novo the decision below to determine if there was error in the formulation and application of the law. Id.

As explained in Jones v. State, 745 A.2d 856, 861 (Del. 1999):

In Terry v. Ohio, the United States Supreme Court held that a police officer may detain an individual for investigatory purposes for a limited scope and duration, but only if such detention is supported by a reasonable and articulable suspicion of criminal activity. We have defined reasonable and articulable suspicion as an "officer's ability to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant th[e] intrusion." A determination of reasonable suspicion must be evaluated in the context of the

totality of the circumstances as viewed through the eyes of a reasonable, trained police officer in the same or similar circumstances, combining objective facts with such an officer's subjective interpretation of those facts. [Footnotes and citations omitted.]

It is important to remember that the possibility of a hypothetically innocent explanation for each of several facts revealed does not preclude a determination that Officer Lord had a reasonable articulable suspicion to stop Brown-Bobak's vehicle. State v. Arterbridge, Del. Super., Def. ID No. 9407015997, Barron, J. (December 7, 1995); State v. Quinn, Del. Super., Def. ID# 9401011669, Gebelein, J. (March 8, 1995).

In this case, without even examining whether a traffic violation existed as a result of Brown-Bobak's vehicle crossing the centerline, I conclude that Officer Lord, who observed Brown-Bobak's vehicle drift across the centerline four times and the brake lights go on three of those times within a distance of under a mile, had a reasonable articulable suspicion to stop Brown-Bobak's vehicle and investigate as to whether Brown-Bobak was driving under the influence of alcohol. It does not matter that there is a crown in the road. It does not matter that Brown-Bobak might have explained she was crossing the centerline because the road was bumpy on the right-hand side. Furthermore, Brown-Bobak's ability to perform other maneuvers legally did not negate her erratic driving over this short distance. Officer Lord pointed to specific and articulable facts, namely the repeated erratic driving within a short distance, which supported his suspicion that Brown-Bobak might be under the influence of alcohol and which warranted his stopping her to investigate his suspicions.

For the foregoing reasons, the decision of CCP is REVERSED, and the matter is remanded for further proceedings in the CCP in accordance with this decision.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

cc: Prothonotary's Office
Court of Common Pleas