

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES	:	CRIMINAL ACTION
	:	
v.	:	NO. 06-349
	:	
DERRICK STEPLIGHT	:	
	:	

MEMORANDUM AND ORDER

Kauffman, J.

November 8, 2006

Defendant Derrick Steplight has submitted a Motion to Suppress Physical Evidence which was obtained on April 28, 2005 following a traffic stop and subsequent police chase. An evidentiary hearing was conducted before this Court on November 7, 2006. For the reasons that follow, the Motion will be denied.

I. Background

On April 28, 2005, at approximately 6:43 p.m., near the 2000 block of North 59th Street Philadelphia, Pennsylvania, Philadelphia Police Officers Christopher Szewczak and Michael Johncola stopped Defendant's vehicle. The officers suspected that the vehicle, a Pontiac Bonneville with license plate number PA FML7911, was in violation of 75 Pa.C.S.A. § 4524(e), which prohibits excessive window tinting of motor vehicles. The uniformed officers approached the vehicle and asked Defendant for his driver's license and registration. As Defendant reached into his back pocket to retrieve his driver's license, Officer Szewczak observed that he held his right hand against his waist, leading the officer to suspect a concealed weapon or contraband. After noticing this motion, Officer Szewczak returned to his marked police vehicle to confer with Officer Johncola. After conferring for a reasonable period of time, the officers decided to order

the defendant and his passenger to step out of the vehicle. Defendant, who testified that he had kept his vehicle in the drive gear throughout the stop, ignored this command and drove away.

Officers Szewczak and Johncola pursued Defendant in their police cruiser and radioed for backup. Eventually, after Defendant's vehicle was blocked by a double parked car, Defendant left his vehicle and continued to flee on foot. As Defendant ran, Officer Szewczak observed him reach into his waistband and throw away a silver handgun. He continued running and was eventually arrested on the front porch of 1735 Lindenwood St., Philadelphia, Pennsylvania. The handgun was recovered by Officer Johncola.

II. Discussion

Defendant's motion to suppress the handgun and other physical evidence rests on two arguments. First, he argues that the police improperly stopped his vehicle. A police officer must have "a reasonable suspicion" of illegal activity, based upon specific and articulable facts, before stopping a vehicle. U.S. v. Brignoni-Ponce, 422 U.S. 873, 880 (1975). After reviewing the evidence, including Defendant's testimony acknowledging that at least his three rear windows were tinted and photographs of Defendant's vehicle offered into evidence by Defendant, the Court finds that the police officers reasonably suspected that the vehicle was in violation of 75 Pa.C.S.A. § 4524(e). Accordingly, the stop was legal. See United States v. Roberts, 77 Fed. Appx. 561, 562 (3d Cir. 2003) (finding a stop "plainly lawful" when a police officer has reasonable cause to believe that a car violates the law against excessively tinted windows).

Second, Defendant argues that the police officers had no right to order him to step out of the vehicle. However, "once a motor vehicle has been lawfully detained for a traffic violation,

the police officers may order the driver to get out of the vehicle without violating the Fourth Amendment's proscription of unreasonable searches and seizures." Pennsylvania v. Mimms, 434 U.S. 106, 109-111 (1977). Because the initial traffic stop was lawful, Officer Szewczak's order to step out of the vehicle was also lawful. This is particularly true here because Officer Szewczak's observation of Defendant's movements reasonably led him to become concerned for his own safety. See id.

III. CONCLUSION

For the foregoing reasons, the Court will deny Defendant's Motion to Suppress Physical Evidence. An appropriate Order follows.

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ORDER

AND NOW, this 8th day of November, 2006, upon consideration of Defendant's Motion to Suppress Physical Evidence (docket no. 16), the Government's Response thereto (docket no. 18), and after an evidentiary hearing on November 7, 2006, it is **ORDERED** that the Motion is **DENIED**.

BY THE COURT:

/s/ Bruce W. Kauffman
BRUCE W. KAUFFMAN, J.