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NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 11-S-1291

PNC BANK, NATIONAL ASSOCIATION,
Plaintiff,

vs.

WILLIAM C. PENN AND JOY R. PENN,
Defendant

TO: William C. Penn:

You are hereby notified that on August 29, 2011, Plaintiff, PNC Bank, National Association, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against the above Defendants, in the Court of Common Pleas of Adams County, PA docketed at No. 11-S-1291 wherein Plaintiff seeks to foreclose on the mortgage secured on property located at 1595 Buchanan Valley Road, Orrtanna, Pennsylvania 17353, Tax Parcel No. 12-B08-0012, whereupon the property would be sold by the Sheriff of Adams County.

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THE OFFICE BELOW MAY BE

ABLE TO PROVIDE YOU WITH
INFORMATION ON AGENCIES THAT
MAY OFFER LEGAL SERVICES TO
ELIGIBLE PERSONS AT A REDUCED
FEE OR NO FEE.

Court Administrator
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone: (717) 337-9846

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11/23

COMMONWEALTH VS. THOMAS

1. It is well established that the stop of a motor vehicle by police constitutes an investigative detention. An investigative detention must be supported by reasonable suspicion. To establish reasonable suspicion, an officer must articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him to reasonably conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity.

2. To have reasonable suspicion, police officers need not personally observe the illegal or suspicious conduct, but may rely upon information of third parties, including “tips” from citizens.

3. Identified citizens who report their observations of criminal activity to police are assumed to be trustworthy, in the absence of special circumstances, since a known informant places himself at risk of prosecution for filing a false claim if the tip is untrue, whereas an unknown informant faces no such risk.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CP-01-CR-198-2011, COMMONWEALTH OF PENNSYLVANIA VS. PAUL CHRISTOPHER THOMAS.

Amber Lane, Esq., Assistant District Attorney, for Commonwealth
David Erhard, Esq., for Defendant

Campbell, J., June 27, 2011

OPINION ON DEFENDANT’S OMNIBUS PRE-TRIAL MOTION

Presently before the Court is Defendant’s Omnibus Pre-Trial Motion filed May 23, 2011. A hearing was held on June 20, 2011. For the reasons set forth herein, Defendant’s Motion is granted.

FINDINGS OF FACT

1. Patrolman Shawn Cuffley has been employed as a patrol officer with the Eastern Adams Regional Police Department for approximately three (3) years. Patrolman Cuffley previously worked for two (2) police departments in York County.
2. On October 29, 2010, Patrolman Cuffley was on duty and in full uniform in a marked police vehicle conducting patrol in Berwick Township, Adams County.
3. At approximately 10:42 p.m. on October 29, 2010, Patrolman Cuffley received a dispatch indicating that a white Jeep Cherokee had pulled onto a neighbor’s lawn and that it sounded like an argument was occurring inside the vehicle.

4. The individual who called in the report was Jessica Sipe, and she gave an address – 10 Summit Court.
5. Patrolman Cuffley responded to the dispatch and, as he approached Summit Court, observed a white Jeep stop at a stop sign, make a turn, and then pass him.
6. There is only one exit off of Summit Court.
7. Patrolman Cuffley initiated a traffic stop of the white Jeep vehicle at Orchard Drive, which is off of Green Springs Drive in Berwick Township, Adams County.
8. Patrolman Cuffley stopped the vehicle because of the dispatch he received.
9. Defendant was subsequently charged with Driving Under the Influence (“DUI”) – General Impairment under 75 Pa. C.S.A. § 3802(a)(1), DUI – General Impairment under 75 Pa. C.S.A. § 3802(a)(2), DUI – Minor under 75 Pa. C.S.A. § 3802(e), and Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages under 18 Pa. C.S.A. § 6308(a), a summary offense.

ISSUE

1. Did Patrolman Cuffley have sufficient legal justification to effectuate a traffic stop of Defendant’s vehicle?

CONCLUSION OF LAW

1. Patrolman Cuffley did not have sufficient legal justification to effectuate a traffic stop of Defendant’s vehicle.

DISCUSSION

In a suppression hearing, the Commonwealth has the burden to establish by a preponderance of the evidence the admissibility of those items the accused seeks to preclude. *Commonwealth v. Ruey*, 892 A.2d 802, 807 (Pa. 2006).

The Fourth Amendment of the United States Constitution, and Article I, Section 8 of the Pennsylvania Constitution protect citizens from unreasonable searches and seizures. **U.S. CONST. Amend. IV; PA. CONST. art. I, § 8.** Under the Fourth Amendment and Article I, Section 8 of the Pennsylvania Constitution, three levels of interaction between citizens and police are applicable – a mere encounter,

an investigative detention, and a custodial detention (arrest). *Commonwealth v. Chase*, 960 A.2d 108, 117 (Pa. 2008). The first category is a mere encounter (or request for information) which need not be supported by any level of suspicion because it carries no official compulsion to stop or to respond. *Id.* The second category is an investigative detention, which must be supported by reasonable suspicion. *Id.* An investigative detention subjects a suspect to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of an arrest. *Id.* Finally, the last category is a custodial detention or an arrest, which must be supported by probable cause. *Id.*

Defendant argues that Patrolman Cuffley lacked reasonable suspicion or probable cause to conduct a traffic stop of his vehicle. It is well established that the stop of a motor vehicle by police constitutes an investigative detention. *Commonwealth v. Daniels*, 999 A.2d 590, 597 (Pa. Super. 2010). As previously stated, an investigative detention must be supported by reasonable suspicion. *Chase*, 960 A.2d at 117. To establish reasonable suspicion, an officer must articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him to reasonably conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity. *Commonwealth v. Anthony*, 1 A.3d 914, 919 (Pa. Super. 2010). The determination of whether an officer had reasonable suspicion is an objective determination, which must be considered in light of the totality of the circumstances. *Commonwealth v. Holmes*, 14 A.3d 89, 96 (Pa. 2011). Therefore, a suppression court must determine whether, under the facts of a particular case, an objectively reasonable police officer would have reasonably suspected criminal activity was afoot. *Id.*

To have reasonable suspicion, police officers need not personally observe the illegal or suspicious conduct, but may rely upon information of third parties, including “tips” from citizens. *Commonwealth v. Barber*, 889 A.2d 587, 593 (Pa. Super. 2005) (citation and quotations omitted). If a tip has a relatively low degree of reliability, more information will be required to establish the requisite quantum of suspicion than would be required if the tip was more reliable. *Id.* (citation and quotations omitted). Identified citizens who report their observations of criminal activity to police are assumed to be

trustworthy, in the absence of special circumstances, since a known informant places himself at risk of prosecution for filing a false claim if the tip is untrue, whereas an unknown informant faces no such risk.

Id. When analyzing information provided by a third party to police:

[a court] must examine the specificity and reliability of the information provided. The information supplied by the informant must be specific enough to support reasonable suspicion that criminal activity is occurring. To determine whether the information provided is sufficient, [a court must] assess the information under the totality of the circumstances. The informer's reliability, veracity, and basis of knowledge are all relevant factors in this analysis.

Commonwealth v. Korenkiewicz, 743 A.2d 958, 964 (Pa. Super. 1999) (internal citations omitted).

Based on the above, Patrolman Cuffley did not have sufficient reasonable suspicion to conduct a traffic stop of Defendant's vehicle. While there was a report given by an identified caller, the totality of the information in that report simply was not sufficient enough to suggest that criminal activity was afoot. Specifically, the dispatch only indicated that a white Jeep Cherokee had pulled onto a neighbor's lawn and that it sounded like an argument was coming from the vehicle, which in and of itself does not suggest criminal activity.¹ Testimony at the suppression hearing did not reveal any other information provided by the dispatch such as identifying features of the individuals inside the car, a license plate number, or any suspicious or potentially criminal activity. The caller did not give any information to believe persons in the vehicle were not the neighbor or that they did not have license or privilege to be on the lawn. No details were provided as to the degree of intrusion onto the lawn. There is no information to suggest that the vehicle's presence on the lawn was anything other than permissive or accidental. Beyond the information provided in the dispatch, Patrolman Cuffley did not articulate any other reasons or observations leading to the traffic stop of Defendant's vehicle. The dispatch was the sole basis articulated for

¹ Interestingly, Defendant was not charged with any criminal offenses such as criminal trespass or disorderly conduct which could be related to the information provided in the initial dispatch.

the traffic stop. Based on the totality of the circumstances in the instant case, information that a car pulled onto a neighbor's lawn and that it sounded like an argument was occurring in the vehicle does not rise to the level of sufficient reasonable suspicion to conduct a traffic stop.

Therefore, for the reasons stated herein, Defendant's Motion to Suppress is granted, and all evidence obtained as a result of the vehicle stop is suppressed.

ORDER

AND NOW, this 27th day of June 2011, for the reasons set forth in the attached Opinion, Defendant's Omnibus Pre-Trial Motion filed May 23, 2011 is granted, and all evidence obtained as a result of the vehicle stop is suppressed.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF DAVID L. BOSSERMAN, DEC'D

Late of the Borough of York Springs, Adams County, Pennsylvania

Executrix: Jayne L. Bosserman, P.O. Box 251, York Springs, PA 17372

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF EMMA P. HAHN, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Betty L. Teal and Ray L. Hahn, c/o Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

ESTATE OF LLOYD T. KLUNK, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Barry L. Klunk, c/o Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

ESTATE OF ROBERT C. LOTT, JR., DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Gary E. Hartman, 126 Baltimore Street, Gettysburg, PA 17325

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF MYRTLE L. HETRICK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Patricia A. Sterner, 1010 Alvin Street, Hanover, PA 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF LAURA D. MARTZ, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Ronald E. Martz, 164 Branch Circle, East Berlin, PA 17316

Attorney: Thomas R. Nell, Esq., 340 Nell Road, East Berlin, PA 17316

ESTATE OF FANNIE B. NACE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Mary Susan Miller, c/o Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

ESTATE OF CASSIE A. NUTTER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Ronald M. Roache, 18 Kenneth Drive, Walkersville, MD 21793; Sarah F. Roache, 18 Kenneth Drive, Walkersville, MD 21793

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EDNA V. REEVER, a/k/a EDNA VIOLA REEVER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Janet L. Sheffer, c/o Sean M. Shultz, Esq., Law Office of Sean M. Shultz, P.C., 4 Irvine Row, Carlisle, PA 17013

Attorney: Sean M. Shultz, Esq., Law Office of Sean M. Shultz, P.C., 4 Irvine Row, Carlisle, PA 17013

ESTATE OF ROBERT J. ROELKER, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Stephanie J. Roelker, 220 Roelker Road, York Springs, PA 17372

Attorney: John R. White, Campbell & White, P.C., 112 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF FREEMAN BIXLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Paul D. Bixler, c/o Jared S. Childers, Esq., R. Thomas Murphy & Associates, P.C., 14 N. Main Street, Suite 306, Chambersburg, PA 17201

Attorney: Jared S. Childers, Esq., R. Thomas Murphy & Associates, P.C., 14 N. Main Street, Suite 306, Chambersburg, PA 17201

ESTATE OF CHARLES J. CARNAGGIO, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Personal Representative: Dominic Carnaggio, 8211 Poplar Mill Road, Nottingham, MD 21236-5581

Attorney: G. Steven McConly, Esq., 119 Baltimore Street, Hanover, PA 17331

ESTATE OF WILLIAM R. COLVARD, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Dawn L. Keller, 1050 Hoffman Rd., Gettysburg, PA 17325

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILLIAM P. L. DECKER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: ACNB Bank, Trust Department, 16 Lincoln Square, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF LOUIS ALBERT HOOVER, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Personal Representative: Harriet L. Gillan, 4813 Hillock Lane, Hampstead, MD 21074

ESTATE OF CARL LEROY RUCKER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Debra R. Hopkins, 2780 Florence Road, Woodbine, MD 21797; Charles E. Carter, Jr., 92 East Main Street, Westminster, MD 21157

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

(continued on page 4)

THIRD PUBLICATION (CONTINUED)

ESTATE OF ALMA M. SMITH, DEC'D

Late of Cumberland Township, Adams
County, Pennsylvania

Executor: Tim G. Guise, 1445
Brysonia-Wenksville Rd., Biglerville,
PA 17307

Attorney: Gary E. Hartman, Esq.,
Hartman & Yannetti, 126 Baltimore
Street, Gettysburg, PA 17325