

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

COREY M. PURNELL-JONES

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1946 MDA 2013

Appeal from the Judgment of Sentence June 14, 2013
In the Court of Common Pleas of Lebanon County
Criminal Division at No(s): CP-38-CR-0001035-2012

BEFORE: PANELLA, J., WECHT, J., and STRASSBURGER, J.*

CONCURRING MEMORANDUM BY STRASSBURGER, J.: **FILED JULY 23, 2014**

I agree with the Majority that Trooper Straniere properly stopped Purnell-Jones, because the trooper witnessed his violation of section 3310 of the motor vehicle code and thus had probable cause to cite him.¹ I also agree that the trooper had the authority to seize Purnell-Jones' vehicle

* Retired Senior Judge assigned to the Superior Court.

¹ The Majority discusses an investigatory stop based upon reasonable suspicion. Majority Memorandum at 6. However, that is not the appropriate standard for an officer-observed violation which requires no additional investigation to establish. **See, e.g., Commonwealth v. Brown**, 64 A.3d 1101, 1105 (Pa. Super. 2013) ("A police officer has the authority to stop a vehicle when he or she has reasonable suspicion that a violation of the vehicle code has taken place, for the purpose of obtaining necessary information to enforce the provisions of the code. ... However, if the violation is such that it requires no additional investigation, the officer must have probable cause to initiate the stop.").

rather than allow him, or his also-unlicensed passenger, to drive the car off following the stop. **See** 75 Pa.C.S. § 6309.2(a)(1) (“If a person operates a motor vehicle or combination on a highway or trafficway of this Commonwealth while the person's operating privilege is suspended... the law enforcement officer shall immobilize the vehicle....”). Further, I agree that the weapon was seized following a voluntary consent to search the vehicle, rendering denial of the suppression motion appropriate without need to discuss whether there was probable cause to justify the search.² Finally, I agree with the Majority that the evidence was sufficient to prove beyond a reasonable doubt that Purnell-Jones had constructive possession of the firearm seized as a result of the consented-to search. **See** Majority Memorandum at 11-13.

Accordingly, I concur in the result reached by the Majority.

² In ***Commonwealth v. Gary***, 26 EAP 2012, 2014 WL 1686766 (Pa. filed April 29, 2014), our Supreme Court held that the Pennsylvania constitution provides no protection beyond that of the federal constitution with regard to a warrantless search of an automobile. Probable cause is all that is required to justify the search; no exigent circumstances need be shown given the mobility of a motor vehicle. ***Id.***