

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,  
Appellant

v.

BASHEIR FAKHA EDWARDS,  
Appellee

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 2183 MDA 2013

Appeal from the Order Entered October 25, 2013  
in the Court of Common Pleas of Luzerne County  
Criminal Division at No.: CP-40-CR-0000294-2013

BEFORE: DONOHUE, J., JENKINS, J., and PLATT, J.\*

DISSENTING STATEMENT BY PLATT, J.: **FILED SEPTEMBER 18, 2014**

Because I believe that there was sufficient reasonable suspicion to justify the motor vehicle stop at issue, I respectfully dissent. I would reverse the grant of suppression and remand for trial.

Sergeant Dale Binker, an experienced police officer, was parked in a deserted parking lot at 1:17 a.m.; none of the businesses who used the lot were open. (**See** N.T., 10/22/13, at 4-6, 18). Sergeant Binker observed a car, driven by Appellant, traverse the parking lot at a higher than average speed and then pull onto a dirt access road leading to land owned by Canadian Pacific Railway and a wooded area. (**See id.** at 5-6). Areas surrounding the access road and the woods are private property. (**See id.**

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\* Retired Senior Judge assigned to the Superior Court.

at 5-6; 21-22). The area is a high-crime area. (**See id.** at 6, 25). Specifically, Sergeant Binker testified that, in the area at issue, it was common to have numerous stolen cars, illegal dumping, poaching. (**See id.** at 6, 15). Sergeant Binker also stated that, because of the wooded location, he was concerned about the possibility of a girl being in the car and being raped. (**See id.** at 15-16).

I believe that this evidence is sufficient to establish reasonable suspicion. **See Commonwealth v. Downey**, 39 A.3d 401, 406 (Pa. Super. 2012), *appeal denied*, 50 A.3d 124 (Pa. 2012) (“In assessing the totality of the circumstances, courts must also afford due weight to the specific, reasonable inferences drawn from the facts in light of the officer’s experience and acknowledge that innocent facts, when considered collectively, may permit the investigative detention.”) (citation omitted); **Commonwealth v. Brown**, 23 A.3d 544, 551 (Pa. Super. 2011) (*en banc*) (combination of experienced police officer and suspicious, although not illegal behavior of appellant was sufficient to justify automobile stop); **Commonwealth v. Hayes**, 898 A.2d 1089, 1094 (Pa. Super. 2006) (“[a]lthough Appellee’s behavior may also have been consistent with innocent behavior, that alone does not make the investigatory detention unlawful.”) (citation omitted).

I would conclude that here, based upon the totality of the circumstances, the Commonwealth presented sufficient evidence of

suspicious activity for Sergeant Binker, based on his training and experience, to establish reasonable suspicion that criminal activity was afoot. Therefore, I would reverse the decision of the trial court granting suppression and remand for trial.

Accordingly, I respectfully dissent.