The Commonwealth v. Eric P. Ortolani – What a Professional MA DUI Attorney Can Do For You

The Commonweath v. Eric P. Ortolani is a notable case in which a second DUI conviction was overturned by the Massachusetts Appeals Court. On July 18th, 2011, the court found that the arresting officer did not have probable cause to stop Ortolani’s vehicle, which resulted in the reversal.

In May of 2009, a police sergeant noticed Eric Ortolani’s van had come to a stop at a stop sign, located on an exit ramp that Route 495 with Route 110 in Littleton, Massachusetts. Even with no oncoming traffic, the van remained stopped, and the brake lights on the vehicle were illuminated. After waiting for roughly 35 seconds, the officer sounded his air horn in an attempt to convince the driver to move. With no response forthcoming from Ortolani, the officer chose to shine his spotlight in the direction of the driver’s side door of the van. Ortolani still did not respond. During this encounter, there was still no present traffic that would have blocked the van from making its turn.

The officer’s suspicions were aroused, and he stated later that he was concerned for the driver of the van. However, once the police sergeant began to exit his vehicle, the van suddenly put on its left turn signal and proceeded onto Route 110. The officer began to follow Ortolani, and as he trailed the vehicle, he noticed that the van began driving on the yellow divider lines between the two lanes of traffic. However, Ortolani did not cross over the yellow line. The van then turned left onto a long driveway. The officer followed the van’s turn, turning on his cruiser lights at that time. By the time the officer had prepared to leave his cruiser, Eric Ortolani had already left his vehicle. Due to observations of his behavior and the results of several field sobriety tests, the officer made the decision to arrest Ortolani, and he was subsequently charged with a second offense OUI.

After his arrest and conviction for 2nd offense OUI, Ortolani chose to appeal the conviction. During the hearing, the Massachusetts Appeals Court held that the driver’s lack of response to the officer’s stimuli warranted a welfare check on the driver of the vehicle; however, the circumstances were changed once Ortolani made his left onto Route 110. It was within the officer’s discretion to tail the van at this point and to continue to observe his behavior. However, because Ortolani did not demonstrate any other signs of distress, such as erratic driving or any other questionable stops, it was determined that the officer in question did not have probable cause to detain the driver.

In addition to a lack of other signs of distress, the police officer did not note Mr. Ortolani posing a clear or present danger to other motorists or having any difficulty remaining in control of his vehicle. The judge ruled that Ortolani did not show any signs of erratic behavior as the van’s operator that would warrant further investigation from the officer. Therefore, the Appeals Court ruled that the police officer did not have an objective bias for pulling the van over when he did.

Since it was found that the officer did not have the basis needed to perform a welfare check on Ortolani, by definition, the defendant was “seized” once the sergeant chose to activate his cruiser’s blue lights. There was no justification for these actions. To be more specific, the officer did not have the grounds needed to assume that Mr. Ortolani had committed a marked or moving lanes violation. From a prosecutorial standpoint, the Commonwealth was unable to provide any other evidence that would form the basis for the probable cause needed to stop the vehicle. Furthermore, it was determined that the original judge in Mr. Ortolani’s first trial should have granted the defense’s motion to suppress this evidence. Because all of the evidence that was used to convict the defendant resulted from this traffic stop, the verdict was reversed on the appeal and the original conviction and sentence were vacated.

This case is an excellent example of what a professional MA DUI attorney can do for a client. The facts of the case were closely examined, and the Massachusetts DUI lawyer was able to use them to his client’s advantage.

If you find yourself in the unenviable position of being charged with an MA DUI or MA OUI, contact an attorney as soon as possible. It may be possible for an attorney to have the case against you thrown out before it ever sees the inside of a courtroom.