IN THE COURT OF COMMON PLEAS IN THE STATE OF DELAWARE IN AND FOR KENT COUNTY

STATE OF DELAWARE)			
)	Case No.:	1301019723	
v.)			
)			
JOSEPH E. AMES)			
Defendant.)			
Mr. Joseph E. Ames 68 Joan Court Dover, DE 19904 Defendant, Pro Se	Court DE 19904		Gregory R. Babowal, Esq. Deputy Attorney General Department of Justice 102 W. Water Street Dover, DE 19901 Attorney for the State	

June 6, 2013

DECISION ON MOTION TO SUPPRESS

Defendant Joseph E. Ames has been charged by the State with speeding. Before trial for this matter, the defendant filed a motion to suppress the evidence against him for the reason that the police officer who made the arrest for the charge did not have jurisdiction to make the arrest¹. In support of his position, he cites 21 *Del. C.* § 701(e) which states that "no municipal, town or city police department shall operate any speed enforcement equipment outside of its corporate limits, notwithstanding any municipal

¹ The defendant is self-represented and referred to his motion as a motion to dismiss, but, it is actually a motion to suppress and will be considered as such by the Court.

charter provision or provision of this Code to the contrary." The State opposes the defendant's motion and contends that the municipal charter of the town of Clayton provided the police officer who made the arrest with the authority to make the arrest. This constitutes the Court's decision on the defendant's motion to suppress the evidence against him. The defendant's motion is granted as the police officer who arrested the defendant did not have authority or jurisdiction to do so.

FACTS

Defendant Joseph E. Ames was charged with speeding in excess of 50 miles per hour on a two lane roadway in violation of 21 *Del. C.* § 4169(a)(4) by a police officer of the town of Clayton. The alleged offense occurred outside the town limits of Clayton, but, within one mile of those limits. The police officer used speed enforcement equipment in order to effectuate the arrest. The defendant has filed a motion to suppress the evidence against him for the reason that the police officer that made the arrest for the charge did not have jurisdiction to make the arrest. In support of his position, the defendant cites 21 *Del. C.* § 701(e) which states that "no municipal, town or city police department shall operate any speed enforcement equipment outside of its corporate limits, notwithstanding any municipal charter provision or provision of this Code to the contrary." The State opposes the defendant's motion and contends that the municipal charter of the town of Clayton provided the police officer who made the arrest with the authority to make the arrest.

DISCUSSION

Section 701(e) of Title 21 of the Delaware Code provides that "no municipal, town or city police department shall operate any speed enforcement equipment outside of its corporate limits, notwithstanding any municipal charter provision or provision of this Code to the contrary." The municipal charter of the town of Clayton provides that its police officers have all the powers and authority of a constable of Kent County within one mile outside of town limits. This provision of the municipal charter appears to include operating speed enforcement equipment.

By their language, both 21 *Del. C.* § 701(e) and the municipal charter of the town of Clayton appear to apply to the present fact pattern. However, a statute's unambiguous language may not be interpreted to contradict is plain meaning. *State v. Hodges*, 2002 WL 31687185, at *3 (Utah Supr.); *People v. Granados*, 666 N.E. 2d 1191, 1196 and 1197 (Ill. 1996). The plain and unambiguous language of 21 *Del. C.* § 701(e) explicitly prohibits a municipality, such as the town of Clayton, to allow its police officers to operate speed enforcement equipment outside of the town's corporate limits, despite any municipal charter provisions to the contrary. Thus, 21 *Del. C.* § 701(e) applies and controls. Such an interpretation of this statute also complies with the "rudimentary principle" that the "specific [statute] governs the general [statute]." *Jett v. Dallas Independent School District*, 491 U.S. 701, 739 (1989). While 21 *Del. C.* § 701(e) specifically addresses the use of speed enforcement equipment outside town limits, the municipal charter generally addresses the police powers of Clayton police officers. Section 701(e) of Title 21 of the Delaware Code is a "specific" statute with a very

explicit and literal intent. Therefore, it controls over the language regarding the general police powers provided in the town of Clayton's municipal charter.

Based on the foregoing analysis, the Court finds that under the unambiguous language of 21 *Del. C.* § 701(e), and despite the provisions of the town of Clayton's municipal charter, the police officer that arrested the defendant for speeding did not have jurisdiction to use speed enforcement equipment to stop and cite the defendant for that charge. Therefore, the defendant's motion to suppress the evidence obtained as a result of that arrest is granted.

IT IS SO ORDERED.

Charles W. Welch, Judge

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