



ROLL CALL REPORTER

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Traffic Stops Based Upon *One* Defective Brake Light

QUESTION: Can an officer make a traffic stop of a vehicle because only one of its brake lights fails to illuminate?

ANSWER: Yes. In Maryland, law enforcement officers have the authority to stop and issue a safety equipment repair order to the driver of any vehicle (made after 1985) that has at least one defective brake light.

CASE: *Marlon Smith v. State of Maryland*, Court of Special Appeals of Maryland
Decided September 10, 2013

How many non-illuminating brake lights justify a traffic stop? That was the key issue in this recent case. On November 30, 2011, Detective Kenneth Ramberg of the Baltimore City Police Department observed a man later identified as Marlon Smith walking along the 1600 to 1700 block of Darley Avenue. After a few minutes, Smith entered the passenger side of a parked car. The car then drove away. Detective Ramberg noticed that when the car braked a short distance away, the rear deck brake light failed to illuminate. The lower two brake lights were working. The detective initiated a traffic stop to issue a safety equipment repair order. As he approached the car, he smelled an odor of burnt marijuana coming from the passenger compartment. He asked the driver and Smith to exit the car and take a seat on the curb. When he walked around to the passenger door, Detective Ramberg saw a handgun lying in open view on the passenger floorboard. Detective Ramberg arrested Smith and the driver. Both initially denied owning the gun, but Smith then said that it didn't belong to the driver.

Smith was charged with possession of a regulated firearm after being convicted of a disqualifying crime; wearing, carrying or transporting a handgun; and wearing, carrying, or transporting a handgun in a vehicle. He was indicted by the grand jury and, before trial, he moved to suppress the handgun as well as his statements made at the scene and later at the police station. He argued that Detective Ramberg lacked reasonable articulable suspicion (RAS) or probable cause (PC) to make the traffic stop. Specifically, he urged that merely having a single malfunctioning brake light is not a violation of the Transportation Article (TA) of the Maryland Code if the vehicle has at least two functioning brake lights. The court denied the motion, ruling that the TA entitles a law enforcement officer to stop a vehicle and issue an equipment repair order if *any* brake light is inoperable. Smith was convicted and sentenced to five years in prison. He appealed.

The Court of Special Appeals upheld Smith's conviction. It did so in reliance upon Section 23-105 of the TA which authorizes a police officer to stop the driver of a vehicle and issue a safety equipment repair order if the vehicle "is being operated with any equipment that apparently does not meet the standards established [in the TA]." Section 23-104(a) of the TA requires every vehicle driven in Maryland to have lights "meeting or exceeding the standards established by the Motor Vehicle Administration (MVA) and the Automotive Safety Enforcement Division of the Department

of State Police.” Pursuant to its authority under the TA, the MVA has issued many regulations, one of which requires at least three functioning brake lights on vehicles manufactured after September 1, 1985: a red high mounted brake light in addition to two other brake lights on the rear of the vehicle. If any of the lights fails to illuminate, the vehicle fails inspection. Consequently, law enforcement officers have the authority to stop and issue a safety equipment repair order to the driver of any vehicle (made after September 1, 1985) that does not meet this requirement. Since the vehicle Smith was in had only two operable brake lights, the officer had legal justification to make the stop and Smith’s conviction was affirmed.

NOTE: Smith also argued that a traffic stop based solely on a violation of an MVA regulation, as opposed to a violation of a State statute, was unconstitutional. The court disagreed, finding that the stop was predicated on a violation of TA Section 23-104, which addresses the minimum standards for equipment on vehicles. In other words, the MVA regulation requiring three operable brake lights was inherently authorized by statute. Even though the court left open the issue of whether a violation of a regulation, by itself, is sufficient to justify a stop, it hastened to say that the stop in this case was justified nonetheless because the vehicle was being driven in an *unsafe condition* in violation of TA Sections 22-101(a)(1)(i) and 27-101(a). Based on this case, it is best that, when issuing a repair order, the officer cite to any/all *statutes* that apply, including those relating to operation of an unsafe vehicle. Certainly, it is reasonable to conclude, as did the court in this instance, that operation of a vehicle with *any* non-illuminating brake light renders it unsafe.

By John F. Breads, Jr., Director of Legal Services, Local Government Insurance Trust

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