



ROLL CALL REPORTER

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QUESTION: Does the Fourth Amendment allow a K-9 “sniff” to be conducted *after* the completion of a traffic stop?

ANSWER: No. Absent a further legal basis to detain, a traffic stop becomes unlawful if it is prolonged beyond the time reasonably required to complete the stop.

CASE: *Dennys Rodriguez v. United States*
Supreme Court of the United States, Decided April 21, 2015

The Traffic Stop:

Just after midnight on March 27, 2012, police officer Morgan Struble observed a Mercury Mountaineer veer slowly onto the shoulder of Nebraska State Highway 275 for one or two seconds and then jerk back onto the road. Nebraska law prohibits driving on highway shoulders and on that basis, Officer Struble pulled the Mountaineer over at 12:06 a.m. Officer Struble is a K-9 officer with the Valley Police Department in Nebraska, and his dog Floyd was in his patrol car that night. Two men were in the Mountaineer: the driver, Dennys Rodriguez, and a front-seat passenger, Scott Pollman. Officer Struble approached the Mountaineer on the passenger’s side. After Rodriguez identified himself, Officer Struble asked him why he had driven onto the shoulder. Rodriguez replied that he had swerved to avoid a pothole. Officer Struble gathered Rodriguez’s license, registration, and proof of insurance, and asked Rodriguez to accompany him to the patrol car. Rodriguez asked if he was required to do so, and Officer Struble answered that he was not. Rodriguez decided to wait in his own vehicle.

After running a records check on Rodriguez, Officer Struble returned to the Mountaineer. The officer asked the passenger for his driver’s license and began to question him about where the two men were coming from and where they were going. Pollman replied that they had traveled from Omaha, Nebraska, to look at a Ford Mustang that was for sale and that they were returning to Norfolk, Nebraska. Officer Struble returned again to his patrol car, where he completed a records check on Pollman, and called for a second officer. Officer Struble then began writing a warning ticket for Rodriguez for driving on the shoulder of the road. Officer Struble then returned to Rodriguez’s vehicle for a third time to issue the written warning. By 12:27 or 12:28 a.m., the officer had finished explaining the warning to Rodriguez, and had given back to Rodriguez and Pollman the documents obtained from them. At this point, the traffic stop was complete.

The K-9 Alert:

Although the traffic stop was completed, Officer Struble did not consider Rodriguez “free to leave.” He asked Rodriguez for permission to walk his dog around Rodriguez’s vehicle. Rodriguez said no. Officer Struble then instructed Rodriguez to turn off the ignition, exit the vehicle, and stand in front of the patrol car to wait for the second officer. Rodriguez complied. At 12:33 a.m., a deputy sheriff arrived. Officer Struble retrieved his K-9 and led him twice around the Mountaineer. The dog alerted to the presence of drugs halfway through the second pass. All told, seven or eight minutes had elapsed

from the time the traffic stop was completed until the K-9 alerted. A search of the vehicle revealed a large bag of methamphetamine.

The Motion to Suppress, Conviction, and Appeal:

Rodriguez was indicted for possession of methamphetamine with intent to distribute in violation of federal law. He moved to suppress the evidence seized from his car. He argued that Officer Struble had prolonged the traffic stop without reasonable suspicion in order to conduct the dog sniff. The federal trial court denied Rodriguez's motion on the basis that extending the traffic stop by just "seven to eight minutes" did not violate the Fourth Amendment." Rodriguez was convicted and sentenced to five years in prison. The federal appeals court upheld the conviction and Rodriguez asked the United States Supreme Court to review his case. The Supreme Court agreed to hear it.

The Supreme Court's Decision:

In short, the Supreme Court ruled that, absent reasonable articulable suspicion or probable cause, police officers cannot extend an otherwise-completed traffic stop to conduct a dog sniff.

Absent any legal basis to continue the detention, a police officer must allow the person "seized" during the traffic stop to leave once the traffic stop is completed. A traffic stop is designed to address the traffic violation that warranted the stop and attend to related officer safety concerns. A traffic stop cannot last any longer than is necessary to complete it. If it does, the officer must have developed an independent legal basis (either reasonable articulable suspicion or probable cause) to justify the continued detention. If the officer lacks such basis, the continued detention violates the Fourth Amendment. Here, since the officer lacked reasonable suspicion or probable cause to further detain Rodriguez, the continued "seizure" of Rodriguez was unconstitutional and the evidence seized from the car should have been suppressed. In short, a dog sniff is unrelated in any way to the purpose of a traffic stop and extending a completed traffic stop to conduct a dog sniff violates the Fourth Amendment. As such, the Supreme Court ordered Rodriguez's conviction to be vacated.

NOTE: This decision does not preclude officers from conducting limited unrelated checks during an otherwise lawful traffic stop. Checks for outstanding arrest warrants and MVA status on the driver's license, registration, and insurance are allowed. These checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly. A warrant check makes it possible to determine whether the traffic violator is wanted for one or more previous traffic offenses. On the other hand, a dog sniff is aimed at detecting evidence of ordinary criminal wrongdoing. It is not an ordinary incident of a traffic stop. It is not directly related to highway or officer safety interests. Consequently, lacking reasonable articulable suspicion or probable cause, any continued detention after completion of a traffic stop to allow a dog sniff is unconstitutional.

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

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