



Roll Call Reporter

LEGAL UPDATE FOR MARYLAND LAW ENFORCEMENT OFFICERS

April 2018

“Abandonment” of a Traffic Stop

Question: If, during a traffic stop, an officer performs a task or tasks unrelated to the stop before it is completed, has the officer “abandoned” the stop?

Answer: No. Maryland courts have never held that *any* break from tasks related solely to processing traffic violations constitutes “abandonment” of a traffic stop. If the tasks performed by the officer (such as briefing other officers on the scene or assisting a K-9 unit by ordering the driver out of the car), do not impermissibly prolong the traffic stop, the traffic stop continues.

Case: *Jason Carter v. State of Maryland*
Court of Special Appeals of Maryland
Decided April 2, 2018

The Traffic Stop and the Canine Scan

In the early morning hours of April 4, 2014, Montgomery County Patrol Officer Michael Mancuso observed a car being driven by Jason Nathaniel Carter fail to make a complete stop at a stop sign while driving in a high-crime area known for drug activity. Officer Mancuso followed the car, pacing its speed at approximately 48 miles-per-hour in a 40 miles-per-hour zone. At approximately 12:52 a.m., Officer Mancuso pulled

Carter over and obtained his license and registration. Carter appeared to be extremely nervous.

Officer Mancuso returned to his car at 12:57 a.m. and promptly: (1) requested a K-9 unit to conduct a scan for narcotics; and (2) ran a records check, which revealed that Carter’s license was valid and that he did not have any outstanding warrants. It took no more than three minutes to perform the records check, which was completed at 1:00 a.m. Officer Mancuso then opened the electronic system to write Carter warnings for both failure to stop and speeding. It took him another five to seven minutes to write the warnings. During that time, Officer Mancuso briefed another officer, Officer Gary Finch, who had arrived at the scene at approximately 1:02 a.m.

The K-9 unit, consisting of Officer Jason Buhl and his drug-sniffing canine, “Konner,” arrived ten minutes after it was requested, at 1:07 a.m. At the time the K-9 unit arrived, Officer Mancuso was still writing the warnings. Officer Mancuso briefed Officer Buhl, and, at approximately 1:09 a.m., Officer Mancuso ordered Carter to exit his car and stand behind the patrol car so that the canine scan could proceed. Within 15-20 seconds, “Konner” alerted to the presence of narcotics on the driver’s seat of Carter’s car.

The Vehicle Search, the Search of the Suspect, and the Arrest

A search of the vehicle yielded nothing illegal. Officer Michael Murphy then conducted a pat-down of Carter and noticed an unnatural bulge in Carter's groin area. Carter became combative and it took all four officers on the scene to place him in handcuffs. Once Carter was handcuffed, he was fully searched. The officers found two plastic baggies containing more than 70 grams of crack cocaine and three grams of cocaine. Carter was then placed under arrest and transported from the scene.

The Motion to Suppress, Conviction, and Appeal

Carter was charged with possession of crack cocaine, possession with intent to distribute, and possession of 50 grams or more of crack cocaine. Prior to trial, Carter moved to suppress the drugs. The circuit court denied the motion and Carter was convicted by a jury of two of the three charges against him. He was sentenced to the mandatory minimum of five years' incarceration. Carter appealed.

The Decision on Appeal

On appeal, Carter conceded that Officer Mancuso had probable cause to detain him for the traffic offenses. However, Carter contended that Officer Mancuso "abandoned" the traffic stop when he paused from writing the warnings to assist Officer Buhl with the canine scan. Carter argued that, because the traffic stop had been "abandoned," the officers needed, but did not have, RAS to continue with a drug investigation. Finally, Carter argued that the search of his person was not incident to arrest because the search occurred before his arrest.

The Court of Special Appeals rejected Carter's contentions and affirmed his convictions. From the record in the circuit court, the Court of Special Appeals concluded that Officer Mancuso was still writing the warnings when the K-9 unit arrived.

The court also concluded that he had not engaged in any impermissible delay up to that point.

Next, the court ruled that Officer Mancuso did not "abandon" the traffic stop when he paused from writing warnings to brief the K-9 officer and order Carter out of the car. The court described the officer's actions as nothing more than "a momentary pause for permissible multi-tasking" and the actions had not unreasonably prolonged the traffic stop. Finally, the court ruled that the search of Carter's person was incident to his arrest. Since the canine alert alone provided probable cause to arrest, the officers were entitled to immediately search Carter's person, even if they did not formally arrest him until after the search was completed.

Note: In this case, the search of Carter's person was deemed incident to his arrest because: (1) the officers had probable cause to arrest (based on the canine alert) at the time of the search; and (2) the search took place just before, or "essentially contemporaneously" with the arrest. Thus, it is critical for officers who possess probable cause to arrest, to either make the arrest and then search the person or search the person just prior to making the formal arrest. Officers who have probable cause to arrest but delay the search of the person run the risk of having to justify the search on grounds other than incident to arrest.

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