



Legal Update

Police Cannot Stop a Motor Vehicle After the Purpose of the Stop has been Resolved

Commonwealth v. Erickson Daveiga SJC (March 24, 2022)

Relevant facts

In August 2017 two Boston Police officers were on routine patrol in a plain clothes capacity in an unmarked car. At 4AM the officers were in the Uphams Corner area on Monadnock Street, which is a narrow one-way street where cars are permitted to park on both sides of the street. Officers came upon a Chrysler Pacifica that was double-parked, largely blocking the road in violation of Boston Traffic Rules and Regulations. There were four people in the Pacifica. The defendant was a passenger in the car, seated behind the driver.

The officers pulled alongside the passenger side of the car so that their driver's window was within inches of the rear passenger window. There was not enough room for the unmarked car to pass. The officers then had a brief conversation with the occupants about them blocking the street and learned that the occupants were waiting for a friend. During the conversation, one of the officers noticed the defendant staring straight ahead. This officer was familiar with the defendant from at least 30 prior encounters, including three arrests. The officer had even seen the defendant walking just hours before this and the defendant had smiled and nodded at him. The officer characterized their relationship as cordial, the defendant referred to the officer by his nickname, Baldy. Based on his prior encounters with the defendant, the officer found the defendant's behavior while he sat in the Pacifica to be unusual.

The officer spoke to the defendant: "How are you, pal? Are you doing good today?" The defendant responded in a low tone that he was OK. At this point the driver told the officers that he would move the Pacifica and gestured toward several open parking spots. The officer said "yeah, sure, all right" and then backed up to give the Pacifica more room to move forward.

For specific guidance on the application of these cases or any law, please consult your supervisor or your department's legal advisor or prosecutor.

The Pacifica drove down Monadnock Street, passing the open parking spaces, and turned left onto Dudley Street. This was suspicious because taking a right turn was a more direct route back to Monadnock Street. The officers then decided to pull the car over for the parking violation and activated their blue lights. No new traffic violation had occurred.

The Pacifica pulled over and the officers approached on foot, asking for the driver's license and registration. "The defendant then asked the officer, "Baldy, what are you doing? Why are you doing this? Are you really going to do this now?" The officer told them that he was conducting a motor vehicle stop.

The occupants were ordered out of the car after one of the officers indicated that he saw a gun. A gun was recovered on the floor near where the defendant's feet had been. The officer, knowing the defendant did not have an LTC, arrested the defendant. The driver was never issued a traffic citation.

After losing a motion to suppress, the defendant was convicted of possessing the firearm. He appealed the conviction arguing that the traffic stop was unreasonable.

Discussion

The defendant argues the stop on Dudley Street was an unreasonable seizure because the police had addressed the underlying traffic violation on Monadnock Street and that any authority the police had to stop the car ended when the police let the car drive away.

The general rule is that "when an officer observes a traffic violation, the officer may stop the vehicle to address that violation." Observing a traffic violation; however, does not give the officer "bottomless authority to seize a defendant." A motor vehicle stop must balance the government's interest in ensuring the public safety on the roads against the privacy of the individuals who are stopped. Once the government's interest has ended, then the individual's interest will prevail and the authority to conduct the traffic stop terminates. For example, the courts have held in previous cases that motor vehicle stops that are unreasonably prolonged are unconstitutional.

In this case the officers could have conducted a motor vehicle stop when they first approached the Pacifica. The officers chose not to do so. Instead, they elected, within their discretion, to not issue a citation and allow the Pacifica to move along and no longer block the street. This completed the "mission" of the investigation.

"It is significant here that the traffic violation resulted from the manner in which the Pacifica was parked. Unlike, for example, reckless driving, any safety hazards were addressed once the driver moved the vehicle."

When the Pacifica drove away from Monadnock Street, the government's interest lapsed, the defendant's individual interests prevailed, and the officer's authority to stop the Pacifica terminated. "Because police otherwise lacked the authority to conduct a traffic stop on Dudley Street, the stop was unreasonable under art. 14."

The motion should have been allowed and the conviction was vacated.

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