



Legal Update

Supreme Judicial Court Discourages the Use of the Word “Blading”

Commonwealth v. Karen K., SJC-13170 (January 4, 2023)

Relevant facts

On November 1, 2018, a sergeant for the Boston police received a call from a concerned citizen who lives in the area of a local housing complex who called to tell him about “multiple kids” that were “hanging around, displaying a firearm” outside that complex. The sergeant relayed this information to Officer Lopes, a 9-year veteran of the Boston police who had been assigned to the department’s youth violence strike force for the past 4 years. Officer Lopes was familiar with the area and was aware of shots having been fired at that complex the day before. The police had also responded to multiple shots fired at that location in the past week.

Officer Lopes and his partner arrived at the housing complex a couple of hours later. While inside his car he saw a group of seven police officers in the area. He also saw the juvenile and a companion “some distance” away from those officers on the street that runs alongside the housing complex. Officer Lopes watched the officers cross the street and then the juvenile and her companion abruptly turn as if to avoid the officers. He continued to watch the juvenile as she walked through the courtyard looking back over her shoulder toward the group of officers and adjusting her waistband. This behavior raised Officer Lopes’ suspicion that the juvenile was carrying a firearm.

Officer Lopes got out of his car and followed the juvenile into the courtyard. The juvenile took a left, heading toward the other officers and then turned around immediately, reversing direction, heading back where she just came from. When she did this, she broke away from her companion and began walking quickly away. At this point, the juvenile was headed toward Officer Lopes and his partner. The juvenile tried to pass Officer Lopes; however, he blocked her path and grabbed her arm. Police recovered a loaded firearm in her waistband.

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

At the motion to suppress Officer Lopes testified that he had made over 40 firearms related arrests and was familiar with that housing complex. He also testified about a course he had attended twice that was conducted by the ATF about the characteristics of individuals carrying illegal firearms.

Discussion

The juvenile argued that the officer lacked reasonable suspicion to stop her. To stop an individual, officers must have reasonable suspicion, based on specific and articulable facts and reasonable inferences that can be drawn from those facts, that the individual has committed, is committing or is about to commit a crime. In its analysis, the court will consider the totality of the circumstances.

During his testimony, Officer Lopes described the actions of the juvenile, in part, as “blading.” He also described the actions and demonstrated them for the court which clarified what he meant by the term. The court expressed concern that the term “blading” is ambiguous and lacks precision. In prior cases it has been used to describe someone attempting to hide one side of their body. In other cases it has been used to suggest a potential imminent attack. Because of the confusion that the word “blading” can create, the court has discouraged its use.

“Henceforth, judges should instruct witnesses simply to describe the behavior they observed in as much detail as possible, rather than merely labeling that behavior as ‘blading.’” Witnesses should clearly describe the behavior observed rather than use the term “blading.”

In this case Officer Lopes observed the juvenile adjust her waistband, make movements and angle her body to shield it away from officers, repeatedly look over her shoulder towards officers, and make multiple, sudden changes of direction in what was believed to be efforts to avoid the officers.

In addition to these observations, Officer Lopes testified about his training and experience which put these observations into context. Based upon his training and experience, he testified that the juvenile’s behavior was consistent “with behavior that had been taught in his ATF trainings as exemplifying the carrying of an unholstered firearm in her waistband.”

The officer’s experience as a member of the youth violence strike force was also relevant. Carrying a firearm is not a crime. Carrying a firearm without a proper license is. In this case, the suspect was a juvenile 5 years younger than the minimum age to be properly licensed to carry a firearm. As a member of the strike force, Officer Lopes was required to spend significant time interacting with young people. In this case, Officer Lopes came face to face with the juvenile where he “could have observed that she likely was too young to be licensed to carry a firearm in the Commonwealth.”

The court noted that this was a close case. None of the juvenile’s actions standing alone would be enough to create reasonable suspicion. However, when these actions are taken together with Officer Lopes’ experience as a member of the youth violence strike force and his training, the court found that the totality of these circumstances gave rise to reasonable suspicion that she was carrying an illegal firearm.

The stop was constitutional.

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