

Florida v. Harris

(2013) __ U.S. __ [2013 WL 598440]

Issue

If probable cause to search a vehicle was based on an alert by a drug-detecting K9, what is the test for determining whether the dog was sufficiently reliable?

Facts

A sheriff's deputy in Florida made a traffic stop on a truck driven by Clayton Harris. Having noticed that Harris was "visibly nervous, unable to sit still, shaking, and breathing rapidly," the deputy asked him for consent to search the vehicle. He refused. The deputy then retrieved his K9—Aldo—from the patrol car and walked him around the truck. Aldo had been trained to detect methamphetamine, marijuana, cocaine, heroin, and ecstasy. When Aldo alerted to the driver's side door handle, the deputy searched the truck but found no drugs. He did, however, find various things that are used to make methamphetamine, including 200 loose pseudoephedrine pills. So he arrested Harris for possessing pseudoephedrine for use in manufacturing methamphetamine.

While Harris was out on bail, the same deputy stopped him for a broken tail light. And once again, he walked Aldo around the truck and, once again, Aldo alerted to the driver's door handle. So the deputy searched the truck again, but this time he found nothing illegal.

Harris filed a motion to suppress the pseudoephedrine pills on grounds that Aldo was unreliable. The deputy, however, testified that, two years earlier, Aldo had successfully completed a 120-hour course given by a local police department; and that, one year earlier, he had completed a 40-hour refresher course. The deputy also testified that he and Aldo conducted weekly training exercises for about four hours, and that Aldo's performance was "really good." In addition, the prosecution introduced written records that showed Aldo "always performed at the highest level" in his courses. On cross-examination, however, the deputy testified that he did not keep records of Aldo's performance during traffic stops or other field work." Furthermore, Aldo's certification (which is not a state requirement) had expired a year earlier.

As for Aldo's two alerts to the door handle after which no drugs were found, the deputy explained that, because Harris apparently "cooked and used methamphetamine on a regular basis," Aldo "likely responded to odors that Harris had transferred to the driver's side door handle of his truck."

The trial court ruled that Aldo's alert had established probable cause to search, but the Florida Supreme Court disagreed, ruling that probable cause cannot exist unless the prosecution presents "comprehensive documentation" of the dog's prior "hits and misses" in the field. The state appealed to the U.S. Supreme Court.

Discussion

In a unanimous decision, the U.S. Supreme Court ruled that, in determining the reliability of a K9, the courts must apply the same "totality of circumstances" test they use in determining the reliability of other sources of information, such as confidential informants. Thus, the Court ruled that the Florida Supreme Court erred when it ruled that drug-sniffing dogs must be deemed unreliable unless the prosecution presents "an exhaustive set of records, including a log of the dog's performance in the field." As the

Court explained, “In all events, the court should not prescribe, as the Florida Supreme Court did, an inflexible set of evidentiary requirements.”

What, then, is the test for determining whether a K9 is sufficiently reliable? The Court ruled that, as with all probable cause determinations, it must be based on common sense and the totality of circumstances. Specifically, the Court explained that “[t]he question—similar to every inquiry into probable cause—is whether all the facts surrounding the dog’s alert, viewed through the lens of common sense, would make a reasonably prudent person think that a search would reveal contraband or evidence of a crime. A sniff is up to snuff when it meets that test.”¹

The Court then ruled that the testimony and documents that were introduced by the prosecution at Harris’s trial were sufficient to establish Aldo’s reliability. Said the Court, “Aldo had successfully completed two recent drug-detection courses and maintained his proficiency through weekly training exercises. Viewed alone, that training record—with or without the prior certification—sufficed to establish Aldo’s reliability. POV

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¹ See *Illinois v. Gates* (1983) 462 U.S. 213.