

Recent Case Report

Date posted: February 14, 2012

U.S. v. Glover

(4th Cir. 2011) 662 F.3d 694

Issue

Did officers reasonably believe that a detainee was preparing to rob a gas station?

Facts

At about 4:40 A.M., two officers on patrol in Charlotte, North Carolina were passing by a gas station that stayed open all night. Both officers were familiar with the station: they knew it was located in an area that was “plagued by violent crime,” that it had previously been robbed, that only one attendant worked at night, and that he usually stayed in the locked office. As they pulled into the station, they noticed that the attendant was outside checking the levels of the fuel tanks. They also noticed a man behind the station who appeared to be watching the attendant. The man was Paul Glover.

As the officers later testified, they saw Glover glance at the attendant from the back corner of the station, then pull his head back “as if he were trying to hide.” Thinking that he was planning to rob the attendant, the officers pretended to drive off, all the while keeping an eye on Glover and noticing that he kept watching them. They then circled around to the back of the station to confront Glover, but he wasn’t there—he was now standing directly over the attendant, having apparently rushed toward him. But before Glover could say or do anything, the officers jumped out of their car and detained him. They also pat searched him, and found a gun in his pants pocket.

When Glover’s motion to suppress the gun was denied, he pled guilty to possession of a firearm by a felon.

Discussion

Glover contended that the gun should have been suppressed because the officers lacked grounds to detain and pat search him. As he pointed out, he had not actually attempted to rob the attendant and none of his actions were illegal. The court responded by explaining that, while one purpose of detentions is to apprehend people who have already committed crimes, an equally important purpose is to prevent crimes from occurring. This means, said the court, that officers who have reasonable suspicion “can detain suspects for conduct that is ambiguous and susceptible of an innocent explanation” in order to “resolve the ambiguity.”

The court then examined the various circumstances and concluded that the officers had sufficient reason to believe that Glover was about to rob the attendant. Of particular importance, the court noted the following:

EARLY MORNING: Would-be robbers would be especially likely to commit their crimes late at night or very early in the morning when it was unlikely they would be observed by passersby. Said the court, “The fact these events took place at this late hour only compounds the suspiciousness of Glover’s behavior.”

FURTIVE GESTURES: The officers noticed that Glover was “glancing around the corner” and then “would pull his head back as if he were trying to hide.” Such “nervous,

evasive behavior,” said the court, “supports the reasonableness of the officers’ belief that Glover was preparing to commit a crime.”

SUDDEN MOVEMENT: When Glover thought the officers had left, “he suddenly left his location and planted himself next to the attendant.”

ATTRACTIVE TARGET: The court noted the “vulnerability of the gas station attendant” and that “24 hour gas stations like this are frequently targets of robbery” because the attendants are usually alone. Said the court, “The Fourth Amendment does not preclude officers from taking modest steps to protect twenty-four hour gas stations, convenience stores, or fast-food outlets from armed robberies. The clerks and attendants who keep these facilities open to the public late at night often do so at considerable risk to their own safety. They often work solitary shifts in isolated circumstances where their presumed proximity to cash makes them uniquely vulnerable.”

For these reasons, the court ruled that the officers’ detention of Glover was lawful and, because they had reason to believe he was preparing to rob the attendant, they also had sufficient grounds to pat search him. POV