

## ISSUES

(1) Did a sheriff's deputy have grounds for a car stop? (2) Was the stop unnecessarily prolonged? (3) Did the deputy have grounds to pat search the driver? (4) Did the stop become a de facto arrest when the deputy handcuffed the driver and placed him inside a patrol car?

## FACTS

An anonymous caller phoned the Los Angeles County Sheriff's Department and reported seeing three Asian men, apparently teenagers, carrying guns. The caller gave their location and said she saw them getting into a late model blue Ford van. A deputy arrived in the area "within minutes" and pulled behind an "older model" blue Ford van. Although the deputy could not see whether the occupants were Asian, he did a spot a couple of equipment violations.

The deputy turned on his red lights but the driver, Haynie, kept going. From behind, the deputy could see Haynie lean to the right "as if to obtain or conceal something." As Haynie continued on, the deputy turned on his siren but Haynie kept going for another one-third of a mile when he turned left across oncoming traffic, drove into a restaurant parking lot, and stopped.

As the deputy walked up to the driver's window he could see that Haynie was African-American and that his passenger was a "Latina." But because he couldn't see if there were any other people inside the van, he decided to investigate. He ordered Haynie to step outside, then pat searched him. As he did so, Haynie began yelling, "kept turning his head to speak to the deputy," and "refused to spread his feet for the frisk." Consequently, the deputy handcuffed him. Haynie remained uncooperative, continuing to yell and refusing repeated requests to sit down.

The deputy looked inside the van and saw there were two other women inside, none of whom were Asian. The deputy attempted to speak with the women but because Haynie was yelling so loud, he put him in the back seat of his patrol car.

Eventually, the deputy was able to explain to Haynie why he had stopped him. And, although the deputy probably had grounds to arrest Haynie for obstructing an officer in the performance of his duties,<sup>1</sup> he decided to release him. Haynie then sued the deputy in federal court for violating his civil rights.<sup>2</sup>

## DISCUSSION

Haynie contended the deputy violated his civil rights because, (1) the car stop was unlawful, (2) the detention was unnecessarily prolonged, (3) the pat search was unjustified, and (4) the deputy's act of handcuffing him and placing him in the patrol car converted the detention into an illegal de facto arrest.

GROUND FOR THE STOP: An officer may stop a car if there was "reasonable suspicion" to believe an occupant was committing a crime.<sup>3</sup> As a general rule, however, information from an anonymous caller will not justify a detention unless there was reason to believe the information was reliable.<sup>4</sup> Haynie argued that no reason existed to

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<sup>1</sup> See Penal Code §148.

<sup>2</sup> See 42 USC §1983; 42 USC §1985.

<sup>3</sup> See *Alabama v. White* (1990) 496 US 325, 329-30; *United States v. Sokolow* (1989) 490 US 1, 7.

<sup>4</sup> See *Alabama v. White* (1990) 496 US 325; *Adams v. Williams* (1972) 407 US 143, 147; *Florida v. J.L.* (2000) 529 U.S. 266, 270; *People v. Saldana* (2002) 101 Cal.App.4<sup>th</sup> 170, 174; *People v. Ramirez* (1996) 41 Cal.App.4<sup>th</sup> 1608, 1616-20; *People v. Avalos* (1996) 47 Cal.App.4<sup>th</sup> 1569, 1580.

believe the anonymous caller's tip was reasonable but the court disagreed, noting that Haynie's refusal to stop and his furtive gesture tended to corroborate the tip. As the court put it, these actions "escalated the suspicion created by the citizen's call" and therefore justified the stop.<sup>5</sup>

**PROLONGED STOP:** Haynie argued that the stop became unlawful when the deputy continued to detain him after determining he was not Asian. But the court pointed out that the deputy needed to look inside the van to determine the nationalities of the other occupants. And because of Haynie's aggressive conduct, it was reasonable for the deputy to order him outside before doing so.

**PAT SEARCH:** Officers may pat search a detainee if they reasonably believe he is armed or dangerous.<sup>6</sup> Such a belief clearly exists if the crime under investigation was the possession of a concealed or illegal weapon.<sup>7</sup> In addition, the court noted that Haynie acted aggressively and refused to comply with the deputy's lawful instructions. Consequently, the pat search of Haynie was ruled lawful.

**HANDCUFFS:** Finally, Haynie argued that the deputy's act of handcuffing him and placing him in his patrol car transformed the detention into an illegal de facto arrest. Although such precautions are commonly associated with arrests, a de facto arrest will not result if the precautions were reasonably necessary.<sup>8</sup> And in *Haynie* they clearly were. Said the court:

Given all the facts confronting the officer, including the citizen call about men with guns; Haynie's failure to immediately yield to the police lights and sirens; and Haynie's continued yelling and refusal to obey [the deputy's] orders, [the deputy] appropriately restrained Haynie only to the extent necessary to complete his investigation into the report about men with guns.

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<sup>5</sup> NOTE: The court said that the report from the anonymous caller, in and of itself, was sufficient to detain because the van, as described by the caller, was spotted in the area shortly after the call was made. This is questionable, however, because it appears contrary to *Alabama v. White* (1990) 496 US 325 which the court cited, but did not distinguish. Also the court did not explain the discrepancy between the caller's report that the van was a "late model," while Haynie's van was "an older model."

<sup>6</sup> See *Terry v. Ohio* (1968) 392 US 1, 27-8; *Ybarra v. Illinois* (1979) 444 US 85, 93-4; *Adams v. Williams* (1972) 407 US 143; *People v. Williams* (1992) 3 Cal.App.4<sup>th</sup> 1100, 1104; *In re Frank V.* (1991) 233 Cal.App.3d 1232, 1240; *People v. Dickey* (1994) 21 Cal.App.4<sup>th</sup> 952, 956.

<sup>7</sup> See *Adams v. Williams* (1972) 407 US 143; *People v. Duren* (1973) 9 Cal.3d 218; *People v. Superior Court (Saari)* (1969) 2 Cal.App.3d 197; *In re Richard C.* (1979) 89 Cal.App.3d 477; *People v. Methey* (1991) 227 Cal.App.3d 349, 358; *People v. Brown* (1989) 213 Cal.App.3d 187, 191.

<sup>8</sup> *In re Carlos M.* (1990) 220 Cal.App.3d 372, 385 ["The fact that a defendant is handcuffed while being detained does not, by itself, transform a detention into an arrest. Instead, the issue is whether the restraint employed exceeded that which was reasonably necessary for the detention."]; *People v. Soun* (1995) 34 Cal.App.4<sup>th</sup> 1499, 1517 [suspects in robbery-murder were handcuffed]; *People v. Brown* (1985) 169 Cal.App.3d 159, 166 [circumstances justified throwing a bank robbery suspect to the ground and handcuffing him]; *People v. Bowen* (1987) 195 Cal.App.3d 269, 274 ["The fact that appellant [a suspect in a purse snatch] was handcuffed while detained awaiting the victim's arrival does not mean that appellant was under arrest during this time."]; *People v. Johnson* (1991) 231 Cal.App.3d 1, 14 ["Here, defendant struggled violently with the officers for five minutes. The need for handcuffing was patently justified by concern for officer safety."]; *People v. Rivera* (1992) 8 Cal.App.4<sup>th</sup> 1000, 1008 ["(P)hysical restraint does not convert a detention into an arrest if the restraint is reasonable under the circumstances."]; *People v. Gorak* (1987) 196 Cal.App.3d 1032, 1038 ["The fact that appellant was placed in the patrol car while detained awaiting the arrival of another officer does not mean that appellant was under arrest during this time."]; *U.S. v. Parr* (9<sup>th</sup> Cir. 1988) 843 F.2d 1228, 1229-32 ["Certainly, there is no per se rule that detention in a patrol car constitutes an arrest."].

Accordingly, the court affirmed the dismissal of the lawsuit against the deputy.<sup>9</sup>

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<sup>9</sup> NOTE: Although the court did not address the issue, at the time of the stop or shortly thereafter, it would appear the deputy had probable cause to arrest Haynie for obstructing and resisting. See Penal Code §148.