

Recent Case Report

People v. Hernandez

(2006) __ Cal.App.4th __ [2006 WL 3707831]

ISSUE

Can officers stop a car with a temporary operating permit solely to determine whether the permit is valid?

IMPORTANT NOTE: The California Supreme Court has granted review of this case. It is no longer citable authority.

FACTS

A Sacramento County sheriff's deputy saw Hernandez driving a pick-up truck without license plates. Although the deputy saw a temporary operating permit attached to the rear window, and although the permit appeared to be valid, he stopped the truck because permits "are very often forged."

When he learned that Hernandez was on probation, he ordered him out of the truck. Hernandez refused and was arrested following a scuffle. Hernandez was subsequently convicted of resisting arrest, being under the influence of methamphetamine, and DUI.

DISCUSSION

Hernandez contended that his conviction should be reversed because the car stop was unlawful and, therefore, the resulting observations by the deputy should have been suppressed. The court agreed, ruling that officers may not stop a vehicle on grounds that it is displaying a temporary operating permit unless there was reason to believe the permit was forged or was otherwise invalid. Said the court:

We are unwilling to conclude it is always reasonable to stop a car that does not have any license plates but has a temporary operating permit, because that would effectively mean it is always reasonable to suspect that a temporary operating permit is invalid.

The court acknowledged that officers may consider their on-the-job experiences that temporary operating permits are often forged or altered. But, as noted, it ruled that these experiences cannot justify a stop in the absence of some specific indication that the permit in question was invalid.¹

¹ See *People v. Nabong* (2004) 115 Cal.App.4th Supp. 1, 4 ["[The officer] did not have any particularized belief that appellant's car was not validly registered; he only assumed based upon his experience that approximately 50 percent of the time the temporary registrations are not valid"]

Hernandez's conviction was reversed. POV

for the car on which they are placed. There was no evidence presented to suggest that appellant's temporary registration sticker was invalid."].