

Lugtu v. California Highway Patrol
(August 16, 2001) __Cal.4th __

ISSUE

When an officer makes a traffic stop, does he have a duty of reasonable care to the occupants of the car?

FACTS

On August 15, 1996 just before 5 p.m., a CHP motor officer on a freeway in San Diego County spotted a Camry in the number-one lane traveling at about 85 miles per hour. The officer pulled to the right of the Camry and motioned the driver, later identified as Michael Lugtu, to stop in center divider strip. This strip was 10 feet wide, bordered on one side by the freeway's number-one lane, and on the other side by a concrete median barrier. Lugtu stopped within the strip, about two feet from the barrier. The officer stopped 10 to 15 feet behind him and turned off the motorcycle's lights.

As the officer approached the car, he noticed that three young girls in the back seat were not wearing seat belts. So, in addition to citing Michael Lugtu speeding, he cited the girls' father, front-seat passenger Cecelio Lugtu, for the seatbelt violation. As he was writing the citations, the officer noticed that a fourth young girl in the back seat was not wearing a seatbelt so he told the Lugtu's that he would write another seatbelt citation unless they buckled her in. Michael Lugtu then got out of the car, apparently to try to help retrieve the girl's seat belt. The officer then walked back to his motorcycle. At this point, the traffic stop had taken six to eight minutes.

Just then, the officer saw a pickup truck drifting from the number-one lane into the median area, heading for the Camry. He "waved and jumped up and down, trying to attract the attention of the truck's driver" who appeared to be looking down inside the truck. Just as the truck was about to hit him, the officer "dove over the concrete median barrier." The truck then crashed into the Camry. All four occupants of the car were seriously injured.

The occupants filed a personal injury lawsuit against, among others, the CHP and the officer who stopped their car. During pre-trial proceedings, the trial judge dismissed the case by granting the CHP's motion for summary judgment. This ruling was based on the judge's determination that, as a matter of law, an officer who makes a traffic stop does not owe a duty of reasonable care to the occupants of the vehicle.

DISCUSSION

The California Supreme Court reversed the trial judge, ruling that officers do, in fact, owe the occupants of the cars they stop a legal duty of reasonable care. Said the court:

[A] law enforcement officer, in directing a traffic violator to stop in a particular location, has a legal duty to use reasonable care for the safety of the persons in the stopped vehicle and to exercise his or her authority in a manner that does not expose such persons to an unreasonable risk of harm.

The court also rejected the argument that officers automatically satisfy their duty of reasonable care whenever the violator's car comes to a stop completely off the roadway. Instead, said the court, if officers direct a violator to stop in a certain place, the determination of whether the officer acted with reasonable care would depend on an evaluation of the surrounding circumstances, such as the danger that would necessarily result from directing the violator to cross two or more lanes of traffic as opposed to directing the violator to stop in the nearest location. Other relevant circumstances would include whether the center median strip and/or right shoulder were wide enough for the cars to park safely; whether visibility conditions were good, thereby "reducing the risk that oncoming traffic might not see a stopped vehicle in the median strip"; whether the officers' actions were in compliance with departmental policy;¹ and whether the violator's manner of driving created such an unsafe condition that it was imperative that he be stopped at the closest possible place.

Accordingly, the case was sent back to the superior court for trial.

DA's COMMENT

It is important to understand that the California Supreme Court did not rule the CHP officer was negligent. It simply ruled that because officers have a duty to use reasonable care, a jury should decide whether, under the circumstances of this case, the officer breached this duty. Said the court:

[A]lthough a jury properly could find from the evidence . . . that the CHP officer was not negligent in directing the automobile in which plaintiffs were riding to stop in the center median under the circumstances of this case . . . the issue whether the officer was or was not negligent cannot properly be resolved by a court as a matter of law and instead presents a triable issue of fact for the jury's determination.

¹ NOTE: Evidence was presented that although the CHP Officer Safety Manual states it is preferable that stops be made on the right shoulder, officers may exercise discretion if warranted by the circumstances. Said the court, "All of the manual's references to stops in the median appear to refer only to instances in which a motorist stops in the center median on his or her own volition, presumably without the officer's direction to do so. And even in such instances, the officer is advised to consider directing the driver to move to a safer location."