

ISSUE

Can officers detain a person based solely on information from a 911 caller whose identity has not been confirmed?

FACTS

A man who identified himself as Jose Domingis phoned 911 in Portland, Oregon and reported he had just been threatened by a man armed with a .45 caliber handgun. Although the caller was not fluent in English, he provided a fairly detailed description of the man. After confirming the spelling of Domingis's last name and his location, the operator asked for his telephone number. Domingis said he did not know the number because he was calling from someone else's cell phone. The operator then asked if there was another phone number where she could reach him. Instead of answering the question, he continued to discuss his location. At first he gave a nonexistent intersection then said, "I don't want . . . I don't want . . ." The court interpreted this to mean he did not want to be contacted by officers.

A few minutes later, an officer arrived on the scene and spotted Terry-Crespo who matched the description provided by Domingis. The officer detained him at gunpoint and, during a pat search, found a loaded .45 caliber handgun. Terry-Crespo was arrested and, after his motion to suppress was denied, pled guilty to being a felon in possession of a firearm.

Portland police later attempted to locate Domingis, but he was never found.

DISCUSSION

It is settled that officers may not detain a suspect based solely on information from an anonymous caller unless there was reason to believe the caller or his information was reliable.¹ Accordingly, Terry-Crespo argued the gun should have been suppressed because the reliability of Domingis and his information was unknown. The court disagreed, ruling that Domingis was not an anonymous caller and, furthermore, there was sufficient reason to believe his information was reliable.

DOMINGIS IDENTIFIED HIMSELF: As noted, Domingis identified himself to the 911 operator. Terry-Crespo argued, however, that the unusual spelling of the name should have alerted the operator that he was using a pseudonym. There are, of course, situations in which 911 operators should know that a caller was likely giving a false name; e.g., "Hi, this is Osama Bin Laden." But here, said the court, it there was any mix-up on the name, it was probably the result of the language barrier: "In light of Mr. Domingis's provisional English, it is unclear that the unusual orthography ('Domingis,' rather than 'Dominguez') represented evasion so much as the difficulty a non-native English speaker might encounter in attempting to spell his name in a foreign language under stressful circumstances."

RECORDED AND TRACEABLE PHONE CALL: Most people who phone 911 know that their calls are being recorded and may be (or are automatically) traced. Thus, they are not entirely anonymous even if they give a false name. As the court observed, "Merely calling 911 and having a recorded telephone conversation risks the possibility that the police could trace the call or identify Mr. Domingis by his voice."

EMERGENCY SITUATION: Domingis was not merely furnishing general information about a suspect. He was providing first-hand information about a crime that had just

¹ See *Florida v. J.L.* (2000) 529 US 266.

occurred. Said the court, “[T]he police could place additional reliability on Mr. Domingis’s tip because his call evidenced first-hand information from a crime victim laboring under the stress of recent excitement.”

PUBLIC POLICY CONSIDERATIONS: Finally, there are public policy reasons for permitting 911 operators and officers to rely on information about an emergency without confirming the identity of the caller.² As the court observed, “Calls to 911 involve exigent circumstances that may limit the police’s ability to gather identifying information. Police delay while attempting to verify an identity of seek corroboration of a reported emergency may prove costly to public safety and undermine the 911 system’s usefulness.”

For these reasons, the court ruled the information furnished by Domingis “had sufficient indicia of reliability to provide [the arresting officer] with reasonable articulable suspicion justifying the stop.”

² See U.S. v. Holloway (11th Cir. 2002) 290 F.3d 1331, 1339 [“(911 calls) are distinctive in that they concern contemporaneous emergency events, not general criminal behavior.”].