

Recent Case

U.S. v. Turvin

(9th Cir. 2008) 517 F.3d 1097

Issue

While conducting traffic stops, may officers ask the driver questions that do not pertain to the violation?

Facts

A state trooper in Alaska made a traffic stop on a pickup truck driven by Turvin. The trooper, whose name was Christensen, had observed several infractions including an “unusually loud exhaust, rapid acceleration around a turn involving minor skidding, and driving six miles over the speed limit in snowy conditions.” When Christensen approached the pickup, he also noticed that neither Turvin nor his passenger were wearing seatbelts.

After discussing the violations with them for three to four minutes, Christensen walked back to his patrol car and asked his dispatcher to run a warrant and license check on Turvin. He then started writing citations for the violations. A trooper named Powell overheard Turvin’s name on the radio and remembered that, during a traffic stop earlier that year, officers had discovered a “rolling methamphetamine laboratory” in his vehicle. When Powell arrived at the scene he conveyed this information to Christensen who then stopped writing the citation, turned on his tape recorder, and walked back to Turvin’s pickup.

As Christensen was telling Turvin that he knew about the prior incident, he noticed a speaker box behind Turvin’s seat, and he noted that the box was large enough to hold the equipment necessary for a methamphetamine lab. So he sought and obtained Turvin’s consent to search the vehicle. In the course of the search, Christensen found a sawed-off shotgun and methamphetamine.

Discussion

Turvin argued that the evidence should have been suppressed because Christensen prolonged the stop

when he asked questions about a crime for which he lacked reasonable suspicion. Thus, the issue was whether traffic stops become unlawful detentions if officers ask questions about unrelated matters.

When officers ask such questions, they will usually cause the stop to be prolonged (at least for a short while) because it takes time to ask questions and listen to answers. This is true even if the officer asks the questions while writing the citation. As the court in *Turvin* pointed out, “An officer who asks questions while physically writing a ticket will likely be slowed down just as an officer who briefly pauses to do so.”

Nevertheless, most courts have rejected arguments that such questioning is improper. Some have ruled it is permissible if it did not prolong the stop; e.g., the officer asked the questions while awaiting DMV or warrant information, or if one officer asked the questions while another wrote the citation.

Other courts have permitted such questioning if it did not extend the length of the stop beyond that which is “normal.” For example, if typical traffic stops take ten minutes, it wouldn’t matter that officers asked unrelated questions, so long as the stop did not go beyond ten minutes.¹ Of course, the clock would stop running at the point officers developed reasonable suspicion or probable cause, or if the driver freely consented to answer additional questions.²

Although the court in *Turvin* could have resolved the issue by employing either one of these approaches, it applied a different (and we think better) method. It ruled that officers may ask questions unrelated to the purpose of the stop if, (1) their questions do not extend the stop appreciably; and (2) the officers had a legitimate reason for asking the questions, meaning essentially that the officers were not on a “fishing expedition.” Said the court, “We will not accept a bright-line rule that questions are unreasonable if the officer pauses in the ticket-writing process in order to ask them.” Elaborating on this principle, the court in *U.S. v. Hernandez* aptly observed:

¹ See *U.S. v. Mendez* (9th Cir. 2007) 476 F.3d 1077, 1080 [“The arrest occurred only eight minutes after the stop.”].

² See *U.S. v. Gill* (8th Cir. 2008) __ F.3d __ [2008 WL 190789] [“If an officer develops reasonable suspicion regarding unrelated criminal conduct during the course of a lawful traffic stop, an officer may broaden his inquiry and satisfy those suspicions without running afoul of the Fourth Amendment.”].

For the police to be vigilant about crimes is, at least broadly speaking, a good thing. And at a traffic stop, the police can occasionally pause for a moment to take a breath, to think about what they have seen and heard, and to ask a question or so.³

Similarly, the Seventh Circuit pointed out, “It is not necessary to determine whether the officers’ conduct added a minute or so to the minimum time in which these steps could have been accomplished. . . . What the Constitution requires is that the entire process remain reasonable. Questions that hold potential for detecting crime, yet create little or no inconvenience, do not turn reasonable detention into unreasonable detention.”⁴

Thus, the court in *Turvin* ruled the trooper’s questions did not convert the traffic stop into an unlawful detention because his questions were brief, and they were prompted by “Powell’s arrival and information about a rolling methamphetamine laboratory involving the same vehicle and the same person.” POV

³ (11th Cir. 2005) 418 F.3d 1206, 1212, fn.7.

⁴ *U.S. v. Childs* (7th Cir. en banc 2002) 277 F.3d 947, 953-4.