

Illinois v. Wardlow

(January 12, 2000) __ US __

ISSUE

May officers detain a person on grounds he was in a high crime area and he ran from them?

FACTS

At about noon, eight Chicago police officers traveling in a four-car caravan drove to a neighborhood known for "heavy narcotics trafficking." At least two of the officers were in uniform but the record does not state whether any or all of the police cars were marked. In addition, the officers' purpose is not explained. They testified they went there "to investigate drug transactions," but it is not known what they intended to do when they arrived. They did, however, testify they "expected to find a crowd of people in the area, including lookouts and customers."

In any event, as the officers converged on the area two of them spotted a man--later identified as Wardlow--standing next to a building and holding an opaque bag. According to one of the officers, Wardlow "looked in our direction and began fleeing." The two officers went after him and saw him run into an alley. The officers drove around to the other end of the alley and were waiting as Wardlow emerged. He was then detained.

During a pat search of Wardlow for weapons, one of the officers picked up the bag he was carrying. As he squeezed it, the officer felt a "heavy, hard object similar to the shape of a gun." The officer then opened the bag and found a loaded .38-caliber handgun. Wardlow was arrested for being a felon in possession of a firearm.

DISCUSSION

Wardlow contended the gun should have been suppressed because he was unlawfully detained. The United States Supreme Court disagreed.

It is settled that officers may detain a person if they are aware of facts constituting "reasonable suspicion" to believe the person was committing a crime.⁽¹⁾ In the absence of direct evidence that a suspect was committing a crime, officers must necessarily rely on circumstantial evidence, such as furtive gestures, the suspect's nervousness, his lying to officers, the time of day or night, flight from officers, and whether the suspect was in a "high crime area." Although none of these circumstances, standing alone, will usually justify a detention, various combinations of them will.

In *Wardlow*, there were essentially two suspicious circumstances known to the officers: (1) Wardlow was in a neighborhood known for "heavy narcotics trafficking," and (2) he ran when he saw the officers arrive. Was this enough to constitute reasonable suspicion to detain? The Court ruled it was:

"[I]t was not merely [Wardlow's] presence in an area of heavy narcotics trafficking that aroused the officers' suspicion but his unprovoked flight upon noticing the police. Our cases have also recognized that nervous, evasive behavior is a pertinent factor in determining reasonable suspicion. Headlong flight-

-wherever it occurs--is the consummate act of evasion: it is not necessarily indicative of wrongdoing, but it is certainly suggestive of such."

Consequently, the Court ruled the detention was lawful.

DA's COMMENT

It is important to understand the Court did *not* rule that officers may always detain a person who runs from police. Although the Court acknowledged that such flight is, to paraphrase, "suggestive of wrongdoing," it rejected the argument by the State of Illinois that a detention is always justified based on "unprovoked flight upon seeing a clearly identifiable police officer."

Still, *Wardlow* is an important case for law enforcement because it approves of detentions based on two circumstances that, as most officers know from experience, are almost always indicative of criminal activity: (1) the suspect's presence in an area where street sales of drugs are a common occurrence, and (2) the suspect's flight from officers immediately upon their arrival.⁽²⁾

Because *Wardlow* affirms the principle that grounds to detain a suspect depend on the totality of circumstances, it is as important as ever for officers to clearly state these circumstances in their reports when a detention is based, at least in part, on flight. For example, the degree of suspicion generated by flight may depend on whether officers reasonably believed the suspect actually saw them, recognized them as police officers, and fled because they were officers. To prove this, it is important that officers be able to testify whether the suspect looked directly at them, whether the officers were in uniform or traveling in a marked or semi-marked car, whether the suspect ran immediately when he looked at them, whether there was any apparent reason (other than the suspect's guilt) that would explain his reason to run, and the manner in which he ran (fast, slow, or, as *Wardlow*'s flight was described, "headlong").

Note that although the gun in *Wardlow*'s bag was discovered during what the Court described as a pat search, the Court did not discuss or rule on the lawfulness of the pat search.⁽³⁾

1. See *Alabama v. White* (1990) 496 US 325, 329-30; *United States v. Sokolow* (1989) 490 US 1, 7; *People v. Bell* (1996) 43 Cal.App.4th 754, 761.

2. **NOTE:** In a similar case, the California Supreme Court ruled that a combination of flight, high crime area, time of night (3 a.m.) and furtive gestures constituted grounds to detain, adding that flight "can be a key factor." *People v. Souza* (1994) 9 Cal.4th 224, 235. Like the U.S. Supreme Court in *Wardlow*, the California Supreme Court rejected the idea that a person's act of running from officers was, in and of itself, grounds to detain. *Id.* at pp. 235-239.

3. **NOTE:** The Court stated in footnote 2: "We granted certiorari solely on the question of whether the initial stop was supported by reasonable suspicion. Therefore, we express no opinion as to the lawfulness of the frisk independently of the stop."