

ISSUE

Did a felony car stop constitute a detention or an arrest?

FACTS

At about 6:15 P.M., Jessica Morales made a 9-1-1 call to LAPD reporting that her father was trying to enter her home in violation of a restraining order. She described her father as a male Hispanic, wearing a red shirt.¹ Initially, dispatchers classified the call as a burglary in progress.

First to arrive were officers in an LAPD helicopter who circled the area and spotted a man walking out of the house located across the street Morales's house. The man—who appeared to be Hispanic and was wearing a red shirt—got into a pickup truck and drove off. The officers relayed this information to the ground units.

Officers in one of the units spotted the truck a few miles away and made a felony car stop. Specifically, they “ordered him from his truck at gunpoint, handcuffed him, and placed him in the back of the police car.” At this point, it appears the officers learned that the crime under investigation was violation of a restraining order, not burglary. When Gallegos denied being Morales's father, they drove him back to the house and confirmed his identity. They immediately released him and drove him back to his truck. He was in custody for 45 to 60 minutes.

Gallegos filed a federal civil rights lawsuit against the officers on grounds he was unlawfully arrested.

DISCUSSION

Gallegos acknowledged that the officers had grounds to detain him. He contended, however, that the manner in which he was detained transformed the detention into a *de facto* arrest; and because probable cause to arrest did not exist, it was unlawful.

It is settled, that officers who have reasonable suspicion to detain an occupant of a car may conduct a felony car stop if such precautions were reasonably necessary.² Officers may also do those things that are reasonably necessary to confirm or dispel their suspicions.³ The question, then, is whether it was reasonable under the circumstances for the officers to conduct the detention in the manner they did. The court said yes:

For police to draw their guns in ordering Gallegos from the truck, when unsure if he was armed; for police to handcuff Gallegos in the back of a patrol car, when unsure of who he was; and for police to bring him back to [the crime scene]—this was not, under the circumstances, an unreasonable way of finding out if Gallegos was the person they were looking for.

¹ **NOTE:** Morales also reported that her father was wearing blue pants but it appears this information was not broadcast to the responding officers.

² See *People v. Soun* (1995) 34 Cal.App.4th 1499; *People v. Williams* (1988) 45 Cal.3d 1268, 1302. Re felony stops generally see *People v. Anthony* (1970) 7 Cal.App.3d 751, 758-9. **COMPARE:** *U.S. v. Del Vizo* (9th Cir. 1990) 918 F.2d 821, 825 [precautions too extensive in light of circumstances].

³ ³ See *Berkemer v. McCarty* (1984) 468 US 420, 439; *People v. Manis* (1969) 268 Cal.App.2d 653, 661; *People v. Haugland* (1981) 115 Cal.App.3d 248, 255; *In re Gregory S.* (1980) 112 Cal.App.3d 764, 777 [“A police officer, presumably trained in the investigation of crime and the maintenance of peace in the community, should be afforded reasonable latitude in the use of acceptable procedures and his ingenuity toward the achievement of those ends.”].

The court also ruled the detention was not unduly prolonged because, at all times, the officers were acting diligently in trying to confirm Gallegos's ID.

In conclusion, the court had this to say:

Perhaps by looking at Gallegos' license and registration, or by contacting [the officers] in the helicopter, this case of mistaken identity could have been resolved sooner. Perhaps not. The argument that there were other ways that [the officers] could have proceeded misses the point. The Fourth Amendment does not mandate one and only one way for police to confirm the identity of a suspect. It requires that the government and its agents act reasonably.

And because the officers did, in fact, act reasonably, the court upheld the trial court's granting of summary judgment for the officers.