

# Recent Case Report

## People v. Ramirez

(2006) 140 Cal.4<sup>th</sup> 849

### ISSUE

Did an officer have grounds to detain a pedestrian for jaywalking?

### FACTS

An officer on patrol was approaching an intersection that was controlled by four-way stop signs when he saw Ramirez walking diagonally across the intersection. The officer was apparently aware that Ramirez was a member of a street gang.

When the officer reached the intersection and stopped for the sign, he yelled at Ramirez, saying, "Hold on. I want to talk to you." The officer wanted to talk to him because he believed that Ramirez's diagonal crossing constituted a violation of California Vehicle Code § 21954. Ramirez initially stopped, but then ran when the officer told him to put his hands on his head. When the officer apprehended him and asked if he "had anything on him," Ramirez said he had a gun in his pocket. The officer reached in and removed it.

### DISCUSSION

Ramirez contended the gun should have been suppressed because the officer lacked grounds to detain him. The court agreed.

There are two jaywalking statutes in California. One of them, Vehicle Code § 21955, covers situations in which a pedestrian walks across a roadway at a point between two intersections that are controlled by traffic signal lights. In such cases, the pedestrian violates the statute unless he crosses at a crosswalk. As noted, Ramirez did not cross at such a location and, therefore, he did not violate this statute.

The other statute is Vehicle Code § 21954 which states that pedestrians who are not within a marked or unmarked crosswalk must yield the right-of-way to vehicles that are "so near as to constitute an immediate hazard." As the court explained, "[T]he only practical effect of [Vehicle Code § 21954] is that a pedestrian crossing outside a crosswalk must yield the right of way to passing automobiles so that he does not constitute an immediate hazard to others on the road."

The question, then, was whether the officer reasonably believed that Ramirez constituted an immediate hazard to any passing automobiles. He did not, said the court, because there were no vehicles in the vicinity. Although the patrol car was headed in his direction, Ramirez did not constitute a hazard to it because the officer had not yet reached the intersection and, in any event, the officer was required to stop at the sign before proceeding. As the court pointed out, "There were no other cars driving on the street, and the officer testified that Ramirez was 'not impeding' his way."

Consequently, the court ruled the gun should have been suppressed. POV