

Recent Case Report

People v. Verdugo

(April 17, 2007) __ Cal.App.4th __ [2007 WL 1347679]

ISSUE

When may officers demand proof of insurance during traffic stops?

FACTS

A San Bernardino County sheriff's deputy was driving behind Verdugo's car when he noticed that the registration sticker on his license plate had expired. When the DMV computer confirmed the expiration, he made a traffic stop.

Verdugo told the deputy that the DMV had issued him a temporary registration sticker, and that he had taped it to his rear window. The deputy then walked back and saw the sticker, realizing that he had not seen it from his patrol car because Verdugo's rear window was heavily tinted.

Nevertheless, he asked to see Verdugo's proof of insurance. When Verdugo said he did not have any, the deputy cited him for violating California's proof of financial responsibility law.¹

DISCUSSION

Verdugo claimed that his admission that he did not have proof of insurance should have been suppressed for two reasons: (1) the deputy lacked grounds to make a traffic stop; and (2) even if the stop was lawful at the outset, it became unlawful when the deputy asked to see his proof of insurance.

Addressing the first argument, the court pointed out that, although there was a temporary operating permit in the window, it was the dark window tint—not the deputy's inattention—that prevented him from seeing it. Thus, the initial stop was lawful.

The court added that, even if the deputy had seen the permit, he could have stopped Verdugo because, (1) the license plate tab had expired, and (2) the DMV computer confirmed the expiration, albeit erroneously. Said the court, "[E]ven if [the deputy] had noticed a temporary tag in the window, [he] would have been justified in making a brief detention stop to investigate the true status of the vehicle's registration."

Although the court concluded that the initial traffic stop was lawful, it ruled that it became unlawful when the deputy asked to see Verdugo's proof of insurance. This was because, pursuant to Vehicle Code § 16028, drivers are required to present proof of financial responsibility only if, (1) they are being cited for a Vehicle Code violation, or (2) they have been involved in a traffic accident. And because neither of these circumstances

¹ Veh. C. § 16028.

existed, the deputy did not have a right to extend the traffic stop to verify that Verdugo was insured. Said the court:

Once [the deputy] determined that appellant was not driving an unregistered vehicle and had committed no other code violation, his detention of appellant should have ended. Instead, the deputy detained appellant further, to investigate whether he was insured, and then to cite him for being uninsured. Appellant's detention exceeded the permissible scope of the original stop.

Consequently, the court ruled that Verdugo's admission that he did not have proof of insurance should have been suppressed.

COMMENT

In the Spring 2007 edition of *Point of View*, we reported that the Court of Appeal in *People v. Hernandez*² ruled that officers may not stop a car to verify that a temporary operating permit in the rear window is valid unless they have reason to believe it is altered or forged. At first glance, it might seem that this ruling is inconsistent with the *Verdugo* court's statement that the deputy could have stopped Verdugo's car even if he had seen the sticker in the rear window.

Actually, there is no inconsistency. The deputy who stopped Verdugo, unlike the officer who stopped Hernandez, had reason to believe that the sticker on his rear window was forged or altered because, according to the DMV, a sticker had not been issued to Verdugo. POV

² (2006) 146 Cal.App.4th 773.