Kansas v. Glover

(2020) __ U.S. __ [2020 WL 1668283]

Issue

If an officer runs the license plate on a moving vehicle and learns that the registered owner's license was suspended or revoked, may the officer stop the vehicle to confirm that the driver was the registered owner and was therefore citable?

Facts

A sheriff's deputy in Kansas ran the plate on a pickup truck and was informed that the license of the registered owner had been revoked. Although the deputy saw nothing to indicate the driver was impaired or that he had committed a traffic infraction, he stopped the truck to confirm his suspicion that the driver—Glover—was the registered owner. After he received confirmation, he cited Glover for driving on a revoked license.

In the course of the appeals process, the Supreme Court of Kansas ruled that the deputy lacked grounds to stop the truck because many people who drive vehicles are not the registered owner, and it was therefore unreasonable for the deputy to assume that the driver of Glover's truck was Glover. Prosecutors appealed the ruling to the U.S. Supreme Court.

Discussion

It is settled that neither probable cause nor reasonable suspicion can exist in the absence of specific facts. This demand for specificity is so important that the Supreme Court described it as "the central teaching of this Court's Fourth Amendment jurisprudence."[1] It is also settled that, in determining whether probable cause or reasonable suspicion exist, officers may (and should) utilize their common sense and make reasonable inferences as to the meaning and significance of the facts. As the Supreme Court observed in *Illinois v. Wardlow*, "[T]he determination of reasonable suspicion must be based on commonsense judgments and inferences about human behavior."[2]

Moreover, the inferences that an officer makes may be based, at least in part, on their training and experience. Thus, in *Illinois v. Gates*, the Supreme Court explained that "[t]he evidence must be seen and weighed not in terms of library analysis by scholars, but as understood by those versed in the field of law enforcement."[3] Or, as the California Court of Appeal put it, "[T]he officer's training and experience can be critical in translating observations into a reasonable conclusion."[4]

In light of these principles and rulings, it was rather obvious that the deputy who stopped Glover reasonably believed that Glover was the driver and that his license had been revoked. But the Supreme Court of Kansas thought otherwise. Specifically, it concluded that the stop was based on "only a hunch" that Glover was the registered owner, and that it was unreasonable for the deputy to conclude that "the registered owner was likely the primary driver of the vehicle."

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[1] *Terry v. Ohio* (1968) 392 U.S. 1, 21, fn.18.
[2] (2000) 528 U.S. 119, 125.
[3] (1983) 462 U.S. 213, 232.
[4] *People v. Ledesma* (2003) 106 Cal.App.4th 857, 866.

The United States Supreme Court disagreed. While the Court acknowledged that many vehicles on the roads are driven by someone other than the registered owner, it pointed out that, when the facts provide an officer with probable cause or reasonable suspicion (as here), it is immaterial that there existed a possibility that the officer was mistaken. As the California Court of Appeal explained in *People v. Brown*, "The possibility of an innocent explanation does not deprive the officer of the capacity to entertain a reasonable suspicion of criminal conduct. Indeed, the principal function of his investigation is to resolve that very ambiguity."[5]

Applying these principles to the facts, the Supreme Court ruled that, before stopping Glover, the deputy had sufficient reason to believe he was the registered owner of the truck and that his license had been revoked. Accordingly, the Court reversed the ruling of the Kansas Supreme Court.

Comment

Readers might be wondering how it is possible that the highest court in the state of Kansas was unaware of these fundamental principles of Fourth Amendment jurisprudence? We will put that aside because there is something even more troubling: One of the nine justices of the U.S. Supreme Court *agreed* with the Kansas court. Specifically, Justice Sonia Sotomayor filed a dissenting opinion in which she said that, while officers may consider their "experiences in law enforcement" in determining whether they have probable cause or reasonable suspicion, they are not permitted to apply common sense. That idea seems nonsensical—common or otherwise.

But there's more. Justice Sotomayor also claimed that the Court's ruling "pave[s] the road to finding reasonable suspicion based on nothing more than a demographic profile." That is preposterous. The Court did nothing more than reaffirm two fundamental principles of constitutional law: (1) probable cause and reasonable suspicion require facts; and (2) in determining the significance and meaning of those facts, officers may use their brains.[6] POV

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[5] (1990) 216 Cal.App.3d 1442, 1449. Also see *Illinois v. Wardlow* (2000) 528 U.S. 119, 126 [the Constitution "accepts the risk that officers may stop innocent people."]; *New Jersey v. T.L.O.* (1985) 469 U.S. 325, 346 ["it is irrelevant that other [innocent] hypotheses were also consistent"].

[6] **NOTE**: The Court noted that "[e]mpirical studies demonstrate what common experience readily reveals: Drivers with revoked licenses frequently continue to drive and therefore to pose safety risks to other motorists and pedestrians," and that "75% of drivers with suspended or revoked licenses continue to drive." Citations omitted. **NOTE**: In reporting on the Court's ruling, one newspaper reporter wrote that "[t[he Supreme Court ruled Monday a traffic stop without any actual driving infraction does not run afoul of the Constitution if the officer had a 'hunch' the driver has a revoked license." How is it possible that a newspaper reporter could be unaware of the difference between a "hunch" and a "reasonable inference"?