

U.S. v. Hanlon
(8th Cir. 2005) ___F.3d ___ [2005 WL 147121]

ISSUES

Did an officer have grounds to, (1) prolong a traffic stop to investigate the possibility the vehicle was stolen, and (2) pat search the driver?

FACTS

At about 3 A.M., a police officer in Minnesota stopped a pickup truck because the driver turned without signaling. As the driver was pulling over, the officer ran a registration check and learned the vehicle was registered to Tina Schroeder.

The driver identified himself as Daniel Hanlon which prompted the officer to question him “about the truck’s ownership.” Hanlon said he bought the truck about two weeks ago “from a guy that lives in Coon Rapids.” As Hanlon was explaining this, the officer noticed he was “shaking profusely,” he appeared to be “very nervous,” and he did not make eye contact “at any time.”

At this point, the officer asked Hanlon to step out of the truck. As he did so, the officer pat searched him for weapons. During the search, he felt a “hard object” that was “one-half to one inch in length and smaller in diameter than a penny. The officer testified he could not rule out the possibility the object was a weapon, possibly a small pocketknife. So he reached in and removed the object which, as it turned out, was a vial containing methamphetamine. During an inventory search of the truck, officers found additional methamphetamine and drug paraphernalia.

DISCUSSION

Hanlon contended the drugs and paraphernalia should have been suppressed because, (1) the officer had no legal basis for investigating ownership of the truck, and (2) the officer did not have grounds to conduct a pat search.

QUESTIONS ABOUT TRUCK OWNERSHIP: Officers who have made a traffic stop may do only those things that are reasonably necessary to carry out their duties and ensure their safety.¹ They may, however, prolong the stop to investigate other matters if they become aware of facts that constitute reasonable suspicion. As the court explained in *U.S. v. Brigham*, “[A] traffic detention may last as long as is reasonably necessary to effectuate the purpose of the stop, including the resolution of reasonable suspicion, supported articulable facts within the officer’s professional judgment, that emerges during the stop.”²

Did the circumstances surrounding the stop constitute reasonable suspicion to believe the pickup might have been stolen? The answer, according to the court, was yes:

Although [the officer] had no indication that the truck was stolen, Hanlon’s claim that he obtained the truck two weeks earlier ‘from a guy in Coon Rapids’ was inconsistent with the truck’s registration status. When combined with Hanlon’s extreme nervousness, profuse shaking, and refusal to look [the

¹ See *People v. Miranda* (1993) 17 Cal.App.4th 917, 928 [“(E)very action taken by an officer in the course of making a traffic stop [must] be objectively reasonable and justified by the specific facts and circumstances confronting the officer.”]; *United States v. Hensley* (1985) 469 U.S. 221, 235 [the officers “were authorized to take such steps as were reasonably necessary to protect their personal safety and to maintain the status quo during the course of the stop.”]; *U.S. v. Campbell* (5th Cir. 1999) 178 F.3d 345, 348-9 [“In the course of [their] investigation, the officers had two goals: to investigate and to protect themselves during their investigation.”].

² (5th Cir. en banc 2004) 382 F.3d 500, 512.

officer] in the eye, this inconsistency was sufficient to create a reasonable suspicion that the truck might be stolen.”

PAT SEARCH: An officer may pat search a detainee (including traffic violators) if the officer is aware of specific facts that constituted reasonable suspicion that the detainee, (1) was armed with a conventional weapon or an object that could be used as a weapon, or (2) constituted a danger to officers or others.³

One of the circumstances that will ordinarily justify a pat search is that the suspect was detained for a crime in which weapons, or tools that could be used as weapons, are commonly used. And, as the court pointed out, car theft falls into this category:

The same circumstances that created a reasonable suspicion of criminal activity and allowed [the officer] to expand the scope of his investigation gave rise to a reasonable suspicion that Hanlon might be armed and dangerous. We have previously stated that, when officers encounter suspected car thieves, they also may reasonably suspect that such individuals might possess weapons.

Finally, Hanlon contended the officer could not lawfully remove the “hard object” from his pocket because there was no reason to believe it was a weapon. It appears that the Eighth Circuit and California are in agreement that officers who are conducting a lawful pat search may remove “hard objects” that “might be a weapon.”⁴ Although the object in Hanlon’s pocket was small, the officer testified he believed it “could have been a pocketknife or some other type of weapon.” Consequently, the court ruled the pat search was lawful.

Hanlon’s conviction was affirmed.

³ See *Terry v. Ohio* (1968) 392 U.S. 1, 27-8; *New York v. Class* (1986) 475 U.S. 106, 117 [only reasonable suspicion—not probable cause—is required].

⁴ See *People v. Limon* (1993) 17 Cal.App.4th 524, 535 [“When a police officer’s frisk of a detainee reveals a hard object that might be a weapon, the officer is justified in removing the object into view.”]; *People v. Allen* (1975) 50 Cal.App.3d 896, 902 [“Any hard object which feels like a weapon may be removed from pockets of clothing.”]; *People v. Mack* (1977) 66 Cal.App.3d 839, 849; *People v. Brown* (1989) 213 Cal.App.3d 187, 192.