

People v. Leath

(2013) __ Cal.App.4th __ [2013 WL 3087071]

Issues

(1) Does a police contact automatically become an investigative detention whenever officers obtain ID from the suspect? (2) Did officers have grounds to detain a suspected armed robber?

Facts

At about 11:30 P.M., two men in a dark SUV robbed three people at gunpoint on 43rd Street in Los Angeles. After taking various items from the victims, one of the robbers announced “Four-Eighth Street” which was, as an officer later testified, “street vernacular for the 48th Street clique of the Rollin 40’s street gang.” The victims immediately notified LAPD.

While two officers were interviewing the victims, two others started looking for a dark SUV in the 48th Street clique area. It didn’t take long. They found one traveling on Third Avenue near 48th Street, but they “never got a chance to light [it] up” because, when the caught up with it, it had been abandoned and parked halfway in the street. As one of the officers explained, the SUV “never quite made it to the curb” and it looked like the driver had been “in a hurry” to put some distance between himself and the vehicle. In addition, the rear passenger door was open, which indicated that the passenger had the same idea. Just then, the officers saw a man walking up a driveway. The man not only matched a general description of one of the robbers (male, African-American, 20’s), his path was consistent with having just exited the driver’s side door.

The officers stopped their car and one of them yelled at the man, “Hey, sir, you left your rear door open.” The man—later identified as Brandon Leath—responded, “Oh shit, I did” as he walked back to the SUV. Having concluded that “something was a little weird,” one of the officers asked Leath if he owned the SUV and he said yes. The officer then “asked” him for some ID. When Leath handed him an ID card, the officer ran his name and, according to the officer, was informed that Leath was wanted for “about a hundred thousand dollars worth of traffic warrants.” (Probably an exaggeration but, considering how people drive these days, not implausible.) After arresting Leath for the warrants, the officers searched the immediate area and apprehended the other robber hiding under a car. They also found some of the stolen property.

Leath filed a motion to suppress additional evidence that was found in his possession and some incriminating statements he made to the officers. When the trial court denied the motion, he pled guilty to robbery.

Discussion

Leath contended that his statements and all of the evidence in his possession should have been suppressed because they were the product of an illegal detention. Specifically, he argued that he was effectively detained the moment he handed his ID to the officer, and that the detention was illegal because the officer lacked grounds to detain him for the robbery. The court disagreed with both contentions.

REQUEST FOR ID: Plainly, a detention did not result when the officers stopped their car and notified Leath that he had left a door open. Instead, at that point the encounter was merely an investigative “contact” which does not require reasonable suspicion or any

other justification.¹ Moreover, it is settled that a contact does not become a detention when, as here, an officer merely “asked” to see some ID.²

Nevertheless, Leath contended that a detention automatically results if, after an officer asked for ID, the suspect handed him some. While this argument might sound silly (and it is), there is actually a case in California in which the court seemingly announced such a rule. In that case, *People v. Castaneda*, the Court of Appeal said, “Although Castaneda was not restrained by the officer asking for identification,” he was detained “once Castaneda complied with his request and submitted his identification card to the officers” because “a reasonable person would not have felt free to leave.”³ However, as we pointed out in *California Criminal Investigation*, this language appears to have been “an unfortunate lapse” by the *Castaneda* court because it is “unimaginable that an officer is free to request ID from a contacted suspect but that the contact automatically becomes an illegal de facto detention if the suspect grants the request.”

This was also the conclusion of the court in *Leath*. As it pointed out, “The right to ask an individual for identification in the absence of probable cause is meaningless if the officer needs probable cause to accept the individual’s proof of identification.” For that reason the court ruled that Leath was not detained until the officer learned of the outstanding traffic warrants, at which point he had probable cause.

REASONABLE SUSPICION: Assuming for the sake of argument that the officer had detained Leath by obtaining ID from him, the court ruled it wouldn’t have mattered because the officers obviously had grounds to detain him for the robbery. As the court pointed out:

[The officers] had been informed that a robbery had been committed by two African-American men who appeared to be in their 20’s, were driving a dark SUV, and had identified themselves as members of the 48th Street clique of the Rollin 40’s street gang. Minutes later, as the midnight hour approached, defendant, an African-American man in his early 30’s, hastily parked a dark SUV in 48th Street clique territory just blocks from the crime scene and then exited the vehicle, leaving the rear passenger door open. The open rear door was consistent with the presence of a passenger who had hastily exited the vehicle.

These facts, said the court, “gave rise to a reasonable suspicion that defendant had committed a crime and supported the officers’ further investigation.” Leath’s conviction was affirmed.

Comment

Although the issue was not raised on appeal, the officers also had grounds to detain Leath for illegal parking. That is because, under California law, officers who have a right to cite a driver for illegal parking also have a right to detain him.⁴ And here it was apparent that the SUV was parked illegally and Leath acknowledged at the outset that he was the driver. POV

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¹ See *Florida v. Royer* (1983) 460 U.S. 491, 497.

² See *Florida v. Bostick* (1991) 501 U.S. 429.

³ (1995) 35 Cal.App.4th 1222, 1227.

⁴ See *People v. Bennett* (2011) 197 Cal.App.4th 907; *People v. Hart* (1999) 73 Cal.App.4th 852.