

People v. Saldana
(August 13, 2002) __ Cal.App.4th __

ISSUE

Did an anonymous tip justify a felony car stop?

FACTS

At about 7:30 P.M., the Los Angeles County Sheriff's Department received an anonymous phone call. The caller said that a gray Ford Taurus station wagon was presently parked in the parking lot of a certain restaurant in Rosemead, and that the driver was carrying a gun and a kilo of cocaine. The caller also said the last three digits on the license plate were 319. Dispatchers traced the call to a pay phone.

A sheriff's deputy arrived at the restaurant about ten minutes later and located the station wagon. It was unoccupied. The deputy ran the license number and learned it was registered to Jose Saldana. He was also notified that a person who lived at Saldana's house was wanted on a four-year old misdemeanor warrant. The wanted person was described as a man 26 years old, 6' 3", 170 pounds.

The deputy staked out the car and, about an hour later, saw Saldana open the door and step inside. Saldana appeared to be in his mid-50's, about 5' 3", 170 pounds. When Saldana got into the station wagon and drove off, the deputy and backup officers stopped the vehicle and made a "felony extraction." Saldana was pat searched but no weapon was found. One of the deputies then sought and received Saldana's consent to search the station wagon. Inside was a trash bag containing marijuana and a baggie of methamphetamine. No gun or cocaine was found.

DISCUSSION

Saldana contended the deputy did not have grounds to detain him and, therefore, the drugs must be suppressed because his consent to search was given during an illegal detention. The court agreed.

It is settled that officers may detain a suspect based solely on an anonymous tip only if there is reason to believe the tip is accurate.¹ As the U.S. Supreme Court observed, "Some tips, completely lacking in indicia of reliability, would either warrant no police response or require further investigation before a forcible stop of a suspect would be authorized."²

The question, then, was whether there was anything about the tip itself, or the tip in light of the deputy's subsequent investigation, that gave it a sufficient degree of reliability to justify a detention. The court said no:

The tip contained no internal indicia of the basis for or reliability of the informant's information. The tip did not include predictive information that could be corroborated by observation. The observed corroboration that a vehicle fitting the description was indeed present at the described location did not corroborate the criminal element of the tip that the station wagon contained a gun or cocaine. Appellant's observed conduct of exiting the restaurant, entering the station wagon, and driving away was not suspicious.

The court added that the existence of the outstanding warrant did not give the tip any weight because Saldana was not the fugitive and the warrant was unrelated to drugs or

¹ See *Alabama v. White* (1990) 496 US 325; *Florida v. J.L.* (2000) 529 US 266, 268; *People v. Johnson* (1987) 189 Cal.App.3d 1315; *People v. Orozco* (1981) 114 Cal.App.3d 435; *People v. Superior Court (McBride)* (1981) 122 Cal.App.3d 156, 164; *People v. Ramirez* (1996) 41 Cal.App.4th 1608, 1616-20; *People v. Avalos* (1996) 47 Cal.App.4th 1569, 1580.

² *Adams v. Williams* (1972) 407 US 143, 147.

weapons. In other words, said the court, the warrant “had no logical tendency to prove that the current driver of the station wagon was currently in possession of a gun or cocaine.”

Nevertheless, the warrant might have been enough, in and of itself, to justify the stop because, under California law, officers may stop a car that is registered to, or reasonably linked to, a person for whom an arrest warrant is outstanding. The purpose of the stop is to determine if the fugitive is in the car or if any of the occupants know his whereabouts.³

The problem was that Saldana’s physical description was not even remotely similar to that of the fugitive. This meant that the only legal justification for the stop would have been to determine if Saldana knew the fugitive’s whereabouts.

While this may have justified the stop, said the court, it did not justify the “felony extraction” procedure because there was no reliable information that Saldana was armed or dangerous. In other words, even if the car stop was lawful at the outset it instantly became unlawful because it was conducted in an unreasonable manner.

So, no matter when the car stop became unlawful, it was clearly unlawful when Saldana consented to the search. The drugs were, therefore, suppressed.

³ See *People v. Dominguez* (1987) 194 Cal.App.3d 1315; *In re William J.* (1985) 171 Cal.App.3d 72, 77 [court refuses to adopt a rule permitting a car stop only if the suspect was the driver—“If we were to adopt such an untenable rule, then legions of criminals throughout the land could hire drivers, who are upstanding citizens with no past criminal involvement, to chauffeur them around our streets and highway sin open, notorious view. As smug passengers they could wave to the police who could only watch in frustration as they passed by.”].