

People v. Lopez

(2016) 4 Cal.App.5th 815

Issues

(1) Did an officer detain the driver of a car when he approached her? (2) If not, did the officer have grounds to search the driver’s car for ID when she said she was not carrying ID, but that there “might” be some inside the vehicle?

Facts

Woodland police received a call from an apparently anonymous caller that the driver of a certain car was driving erratically at a specified intersection, and that the driver had been “drinking all day.” The caller provided the operator with a description of the car, including its license plate number. The officer was unable to locate the car in the immediate vicinity, so he ran the plate number and found that the registered owner lived in the vicinity. So he drove there and parked nearby. Within a few minutes, a car matching that description arrived and parked in front of the house. The officer observed no Vehicle Code violation or other indication that the driver was impaired.

When the driver exited the car, the officer approached her and, because it appeared she was walking away from him, he asked if she had a driver’s license. She said no and that she wasn’t carrying any ID, but that there might be some in the car. The officer then handcuffed her, and another officer entered her car and saw a purse on the front passenger seat. He handed the purse to the first officer who, while searching it for ID, found methamphetamine. The driver, subsequently identified as Maria Lopez, was arrested. Before trial, Lopez filed a motion to suppress the drugs on grounds the search was unlawful. The judge ruled that, while there was no detention, the search was illegal. The People appealed.

Discussion

A DETENTION? The first issue on appeal was whether the officer had unlawfully detained Lopez when he asked to see her driver’s license after she exited the car and started walking away. It is settled that a detention occurs if (1) an officer’s words or actions would have indicated to a reasonable person that she was not free to decline the officer’s request, and (2) the person submitted to the officer’s show of authority.¹ Although Lopez submitted to the officer’s implied request to stop, the court ruled the request did not convert the encounter into a detention because it is also settled that an officer’s mere *request* to see a person’s ID would not cause a reasonable person to believe that she was required to do so. As the Court of Appeal explained in *People v. Cartwright*, “It is now well established that a mere request for identification does not transmogrify a contact into a Fourth Amendment seizure.”²

¹ See *Brendlin v. California* (2007) 551 U.S. 249, 256-57; *California v. Hodari D.* (1991) 499 U.S. 621, 626; *P v. Brown* (2015) 61 C4 968, 977.

² (1999) 72 Cal.App.4th 1362, 1370. Also see *Florida v. Bostick* (1991) 501 U.S. 429, 437 “[N]o seizure occurs when police ask ... to examine the individual’s identification—so long as the officers do not convey a message that compliance with their requests is required.”]; *INS v. Delgado* (1984) 466 U.S. 210, 216 “[A] request for identification by the police does not, by itself, constitute a Fourth Amendment seizure.”].

A detention may, however, result if there were additional circumstances indicating that the person was not free to leave. For example the court has ruled that a detention resulted when an officer stopped his patrol car about 35 feet from the defendant and, after illuminated him with a white spotlight, quickly approached him.³ In *Lopez*, however, the record indicated that the officer did nothing more than request to see Lopez's driver's license and, accordingly, the court ruled that she was not initially detained. Said the court, "[C]onsidering all of the circumstances surrounding [the officer's] approach and the words he directed towards defendant, we cannot conclude his verbal and non-verbal conduct constituted a show of authority so intimidating as to communicate to any reasonable person he or she was not free to decline his requests or otherwise terminate the encounter.

Although Lopez was not detained initially, it was undisputed that she was detained when the officer handcuffed her. But, by that time, the officer had grounds to detain her for driving without a license.⁴ Furthermore, the court ruled that the officer's act of handcuffing her did not render her detention an illegal arrest because "nothing prevented [the officer] from issuing defendant a citation for driving without a license, assuming he found identification in her purse that satisfied him as to her identity, and then releasing her from the handcuffs and allowing her to go about her day.

WARRANTLESS VEHICLE SEARCH: Lopez argued that, even if she wasn't initially detained, the search of her car was unlawful because the officer lacked probable cause to believe there was evidence of a crime located inside it. That was certainly true. But it was irrelevant because the officer was not conducting a probable cause search for evidence.⁵ Instead, he was conducting an entirely different type of vehicle search: a search for the driver's ID.

The California Supreme Court had ruled that such a search was permissible if an officer, having probable cause to believe that the driver committed a traffic violation, could search the vehicle for ID if the driver told the officer he did not possess ID or was unable to find it. Thus, officers are not required to take the driver's word for it that there is no ID in the vehicle.⁶ The search must, however, be limited to places and things in which ID or registration may reasonably be found.⁷ This would include such places as the

³ *People v. Garry* (2007) 156 Cal.App.4th 1100.

⁴ See Veh. Code §§ 12500, 12951(b) ["The driver of a motor vehicle shall present the registration or identification card or other evidence of registration of any or all vehicles under his or her immediate control for examination upon demand of any peace officer" who has been lawfully stopped for a traffic violation."].

⁵ See *United States v. Ross* (1982) 456 U.S. 798, 809 ["[A vehicle] search is not unreasonable if based on facts that would justify the issuance of a warrant, even though a warrant has not actually been obtained."]; *People v. Carpenter* (1997) 15 Cal.4th 312, 365 ["The police had probable cause to search the vehicle. Under the 'automobile exception' to the warrant requirement, they did not need a warrant at all."].

⁶ *In re Arturo D.* (2002) 27 Cal.4th 60, 78 ["When the officer prepared to cite Arturo for a Vehicle Code violation, he had both a right and an obligation to ascertain the driver's true identity"]. Also see Veh. Code § 12951(b) ["The driver of a motor vehicle shall present the registration or identification card or other evidence of registration of any or all vehicles under his or her immediate control for examination upon demand of any peace officer" who has been lawfully stopped for a traffic violation."].

⁷ See *In re Arturo D.* (2002) 27 Cal.4th 60, 78, fn.19.

glove box, above the visor, and under the seats.⁸ The search need not be limited to places in which such documents are “usually” or “traditionally” found.⁹

Consequently, the court ruled that the vehicle search was lawful because (1) the officer had probable cause to believe that Lopez had committed a violation of the Vehicle Code, (2) Lopez claimed she was not carrying any ID, and (3) the search was limited to a place in which ID might reasonably be found; i.e., her purse.

Discussion

Over the years, some courts have suggested that many of the things officers may do without converting a contact into a detention—such as requesting to see some identification—would clearly indicate to a reasonable person that he was not free to leave. That argument could certainly have been made in this case. But it should be kept in mind that the analysis of these circumstances simply represents a practical—albeit imperfect—compromise between competing interests. POV

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⁸ See *In re Arturo D.* (2002) 27 Cal.4th 60, 81 [“the area under Arturo’s seat was a location where registration or identification documentation reasonably might be expected to be found”]; *People v. Webster* (1991) 54 Cal.3d 411, 431 [“visor and glove compartment” are traditional repositories for auto registrations]; *People v. Turner* (1994) 8 Cal.4th 137, 182 [glove box]; *People v. Martin* (1972) 23 Cal.App.3d 444, 447 [“on the sun visors”]; *People v. Chavers* (1983) 33 Cal.3d 462, 470 [“a glove compartment is a traditional depository of a vehicle registration”].

⁹ See *In re Arturo D.* (2002) 27 Cal.4th 60, 78 [search need not be limited to “traditional repositories”].