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7-11-2013

Summary of State v. Beckman, 129 Nev. Adv. Op. 51

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Nevada Law Journal

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Recommended Citation

Nubel, Daniel, "Summary of State v. Beckman, 129 Nev. Adv. Op. 51" (2013). *Nevada Supreme Court Summaries*. 79.

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CRIMINAL LAW AND PROCEDURE

Summary

Appeal from a district court order granting a motion to suppress evidence. The Court clarified the government's ability to subject citizens to drug sniffing dogs in the absence of reasonable suspicion.

Disposition/Outcome

Relying on the United States Constitution and the Nevada Constitution, the Court upheld the district court's order granting a motion to suppress evidence.

Facts and Procedural History

Nevada Highway Patrolman Pickers stopped Beckman on Interstate 80 for speeding. Trooper Pickers requested Beckman's license and registration. Trooper Pickers found Beckman's nervousness and the fingerprints on Beckman's trunk suspicious. When Trooper Pickers returned to his patrol car he radioed dispatch to request a drug-sniffing dog. Pickers returned to Beckman's vehicle and told Beckman that "everything checks good . . . be careful."

Before Beckman could drive away, Trooper Pickers asked Beckman if he could answer a few questions. Beckman agreed to do so. Trooper Pickers then asked if Beckman had anything illegal in his car, and if Trooper Pickers could search the vehicle. Beckman refused to allow the search. Trooper Pickers then told Beckman that he was no longer free to leave and would have to wait for the canine unit to arrive. About nine minutes had passed since the initial stop. When the canine unit arrived another nine minutes later, the drug-sniffing dog signaled the presence of narcotics in Beckman's vehicle. Police officers searched the car and seized cocaine and methamphetamine. Trooper Pickers then drove Beckman to the sheriff's station.

The State charged Beckman with several drug-related offenses. Beckman filed a motion to suppress, arguing that Trooper Pickers had unlawfully seized him when Trooper Pickers required him to wait for the canine unit to arrive without reasonable suspicion. The State argued that Trooper Pickers had reasonable suspicion for the de minimis detention. The district court granted Beckman's motion to suppress in a detailed order focusing on the legality of the warrantless search.

¹ By Daniel Nubel

Discussion

Justice Pickering wrote for a unanimous court.

The Court reviewed the reasonableness of Trooper Picker's seizure de novo. The United States Constitution and the Nevada Constitution both guarantee "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."² An automobile stop is a "seizure" of "persons" and therefore must be reasonable under the circumstances. The Court concluded that Trooper Picker's initial stop of Beckman was reasonable because Trooper Picker had probable cause to believe Beckman was exceeding the speed limit.

Even when a seizure is lawful at its inception, it can violate the Fourth Amendment if its manner of execution unreasonably infringes on interests protected by the Constitution.³ The Court distinguished this case from *Caballes*. In that case, the United States Supreme Court found a canine sniff did not violate the Fourth Amendment because it did not prolong the length of the stop.⁴ Unlike *Caballes*, Trooper Picker extended the length of Beckman's stop to await the arrival of the canine unit.

A traffic stop that extends beyond the time necessary to effectuate its purpose is not necessarily unreasonable. A prolonged stop may be reasonable in three limited circumstances: when the extension of the stop was consensual, the delay was de minimis, or the officer lawfully receives information during the traffic stop that creates a reasonable suspicion of criminal conduct. The Court concluded that none of these narrow exceptions applied in this case. First, Beckman had not consented to the extension of the stop. Second, the delay was not de minimis because it lasted nine minutes, doubling the length of the stop. Third, Trooper Picker observing Beckman's nervousness and fingerprints on the vehicle's trunk were not sufficient to create reasonable suspicion under these circumstances.

Conclusion

Under the United States Constitution and the Nevada Constitution, a seizure of a person must be reasonable under the circumstances. In this case, the Court concluded that Trooper Picker's seizure of Beckman until the arrival of the canine unit was unreasonable because Beckman had not consented, the delay was not de minimis, and Trooper Picker did not have reasonable suspicion. The Court affirmed the district court's decision granting Beckman's motion to suppress.

² U.S. CONST. amend. IV; *see* NEV. CONST. art. 1, § 18

³ *Illinois v. Caballes*, 543 U.S. 405, 407 (2005).

⁴ *Id.* at 408–09.