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Summary of Morgan v. State, 120 Nev. Adv.Op.No.25

Ronda Heilig
Nevada Law Journal

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Recommended Citation

Heilig, Ronda, "Summary of Morgan v. State, 120 Nev. Adv.Op.No.25" (2004). *Nevada Supreme Court Summaries*. 658.

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CRIMINAL LAW AND PROCEDURE – SEARCH AND SEIZURE – SUPPRESSION OF EVIDENCE

Summary

A police officer's arrest for misdemeanor traffic offenses is not arbitrary or unreasonable when the officer has "reasonable and probable grounds to believe the defendant will disregard written notice to appear in court."²

Disposition/Outcome

The Nevada Supreme Court held that a police officer's arrest of an offender for a misdemeanor traffic offense, based on the offender's record of failing to pay fines and failing to appear in court, was neither arbitrary nor unreasonable.

Factual and Procedural History

A Reno, Nevada, police officer observed Morgan driving a vehicle with its lights off. When the officer flashed his headlights at the driver to turn his lights on, the driver failed to do so. The officer then initiated a traffic stop of Morgan's vehicle for failure to turn on his headlights.

Morgan stopped his vehicle, and when asked to produce a driver's license, handed the police officer a California identification card. The police officer checked the Department of Motor Vehicle files and discovered Morgan's license was suspended for failure to pay fines and failure to appear in court.

Deciding Morgan was not an appropriate case for issuing a misdemeanor citation, the officer placed Morgan under arrest and transported him to the Washoe County Jail. At the jail, Morgan was strip-searched. During the search, thirty-four (34) grams of cocaine were discovered, and Morgan was charged with trafficking, an offense requiring possession of over twenty-eight (28) grams of cocaine.

Morgan filed a motion to suppress the drug evidence, which the State of Nevada opposed and the district court denied. Morgan was convicted of trafficking in controlled substances and sentenced to jail for a period of ten (10) to twenty-five (25) years.

Morgan filed an appeal, claiming the district court erred in failing to suppress the cocaine because the seizure was the "fruit" of an unlawful seizure of his person.

Discussion

Police have discretion to make a misdemeanor traffic arrest when they have probable cause to believe "other criminal misconduct is afoot."³ Police are required to make an arrest

¹ By Ronda Heilig

² *Morgan v. State*, 120 Nev.Ad.Op.No.25 (May 5, 2004).

³ *Id.* at ___. (quoting *State v. Bayard*, 119 Nev. 29, 71 P.3d 498 (2003)).

when they have probable cause “to believe the person will disregard a written promise to appear in court.”⁴

The Nevada Supreme Court found that there was sufficient evidence regarding Morgan’s record for failure to pay fines and failure to appear in court. The police officer’s testimony indicated that he followed his department’s policy of making an arrest if an offender’s license is suspended for failure to pay fines. The offender’s own record of past behavior indicates that the offender will not pay the fines associated with the current citation. Further, the police officer did not make the arrest based on an arbitrary whim or an illegal basis such as race, gender, or religion. The officer decided to arrest the offender based on evidence of his past behavior. As such, the Nevada Supreme Court concluded that the district court did not err in allowing the presentation of the cocaine as evidence, and the judgment of conviction was affirmed.

Conclusion

A police officer may arrest an offender for a misdemeanor traffic offense, based on the offender’s record of failing to pay fines and failing to appear in court.

⁴ *Id.* at ___. (quoting *Collins v. State*, 113 Nev. 1177, 1180, 946 P.2d 1055, 1058 (1997) which discusses how Nev. Rev. Stat. § 484.795(1) makes an arrest mandatory if the traffic offender fails to properly identify himself, or the police have probable cause to believe the offender will fail to appear in court.