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Behind the Hiding Spot: Piecing Together Proximity, Behavior, and Statements for Reasonable Suspicion

By **Daigle Law Group**

August 1, 2023

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In *United States v. Roper*, the court dealt with the issue of reasonable suspicion in the context of a police officer stop and search. This case provides valuable insights for law enforcement officers, shedding light on the factors contributing to reasonable suspicion during a police stop.

Roper was convicted and sentenced to a 105-month term of imprisonment, followed by a three-year term of supervised release. He then filed an appeal challenging the denial of his motion to suppress evidence found during the stop. Upon the district court's denial of Roper's motion to suppress, Roper appealed to the Fifth Circuit, where the lower court's denial to suppress the gun was upheld.

On February 21, 2021, a Midland resident reported an individual entering her backyard. Midland Police Department (MPD) Officer Kienan Goodnight responded to the call, taking photos of the resident's security camera footage of the alleged prowler. Shortly after, MPD Sergeant William Welch noticed a then-unidentified individual, later identified as Roper, hiding near a fence line. Roper emerged from his hiding spot with his hands raised and voluntarily disclosed that he was being chased by two men in a black truck.

Sergeant Welch conducted a pat-down search of Roper and asked him additional questions. Officer Goodnight arrived and showed Sergeant Welch the photograph of the alleged prowler, which did not closely resemble Roper. Despite this, Sergeant Welch questioned Roper about his presence in the resident's backyard, to which Roper admitted to jumping fences. Sergeant Welch discovered a firearm near where Roper had been hiding and subsequently arrested him.

The issue presented before the Fifth Circuit was the determination of whether the collective evaluation of the factors and circumstances in this case, including Roper's proximity to the reported crime scene, his behavior upon emerging, and his contradictory statements, constituted adequate grounds to substantiate Roper's prolonged detention and the denial of his motion to suppress the firearm found during the police stop. The court was tasked with assessing whether these considerations, when taken together, satisfied the requisite standard of reasonable suspicion.

The appellate court upheld the district court's denial of Roper's motion to suppress the firearm, finding that there was reasonable suspicion to continue Roper's detention.

First, the court noted that Roper's location and timing were significant. Roper was found hiding near the scene of the reported crime after midnight. The court emphasized that Roper's proximity to the crime scene and the time of day were relevant factors to consider.

Second, the court examined Roper's behavior as he emerged from his hiding spot and approached Sergeant Welch with his hands raised. The court reasoned that Roper's voluntary disclosure of information and his actions to distance himself from the alley where he had been hiding could be interpreted as an attempt to separate himself from potential contraband.

The court then focused on Roper's inconsistent and nonsensical answers to Sergeant Welch's questions. Roper provided implausible explanations, claiming he was being chased by two men in a black truck and that the man in the photograph was one of his pursuers. The court found that these contradictory and illogical statements added to the reasonable suspicion that Roper was involved in criminal activity.

Lastly, the court recognized that the photograph of the alleged prowler did not resemble Roper. However, it also noted that the photograph's arrival did not negate the reasonable suspicion that had already been established. The court emphasized that reasonable suspicion is based on the totality of the circumstances and that the photograph's arrival was just one aspect to consider.

The court upheld the denial of Roper's motion to suppress the firearm, considering factors such as Roper's location near the reported crime scene, his behavior upon emerging, and his inconsistent answers.

Law enforcement officers should take note of the court's analysis in *United States v. Roper*, as it underscores the importance of evaluating proximity, behavior, and statements in determining reasonable suspicion during a police stop. By considering these factors in conjunction with the totality of the circumstances, officers can make more informed decisions that uphold the principles of justice and public safety.

***United States v. Roper*, 63 F.4th 473 (5th Cir. 2023)**

Originally published at <https://dlglearningcenter.com/behind-the-hiding-spot-piecing-together-proximity-behavior-and-statements-for-reasonable-suspicion/>

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