

Midnight Missteps: The Limits of Reasonable Suspicion in *Milla v. Brown*

Description

In the recent case *Milla v. Brown*, the United States Court of Appeals for the Fourth Circuit examined Fourth Amendment claims lodged against two officers for detaining and searching the plaintiff and his vehicle without adequate reasonable suspicion to justify the detention.

After receiving an anonymous tip about a nearby stabbing, police in Fairfax, Virginia, responded to a gas station, which was reported to be the location of the victim. At the entrance of the gas station stood a man with a deep cut on his arm, furiously banging on the door and yelling at the gas station employee in a drunken stupor. The officers reported detecting a strong odor of alcohol from the victim. The injured man refused to respond to the officers's questions about what happened, offering no leads or helpful information about who caused his injuries. The initial report mistakenly indicated that the man had been stabbed in the chest, prompting the department to dispatch a police helicopter to the scene. Shortly afterward, medical responders arrived.

When the officers received word from the medics that the man's injuries did not warrant an airlift, they decided to use the infrared heat-detection camera mounted on the helicopter to search the area for potential suspects. FLIR cameras (Forward Looking InfraRed) detect and measure the infrared energy emitted from objects, allowing police to determine which nearby vehicles had recently been driven. Officers noticed a "hot" vehicle parked close by in front of a residence behind a closed gate. Although the officers did not have any description of a suspect, they suspected Milla's involvement in the stabbing due to the proximity of the residence and parked car, as well as the late hour of the night.

The ensuing encounter unfolded quickly, lasting only about eight minutes. When officers approached the residence and shined their patrol headlights into the car, they saw the plaintiff, Milla, sitting inside with the driver-side door open. Milla quickly shut the door and later attempted to explain that he was searching for his headphones. It was established that at the time, Milla could not discern that the patrol car was a police vehicle and assumed it was another resident of the home. He claimed he shut the door of his car so the other vehicle could park in the driveway. At this point, the officers had not identified themselves and did not have their flashers activated. The officers ordered him to exit the vehicle while holding him at gunpoint and proceeded to detain him. After securing him in the back of the squad car, a search of his vehicle turned up no evidence, and the officers released him.

Milla filed a pro se complaint under 42 U.S.C. Â§ 1983, suing the officers for Fourth Amendment violations based on his belief that the police lacked reasonable suspicion to detain and search his car. The district court initially found in favor of the defendant officers, granting their motion for summary judgment. The lower court determined that Officers Brown and McComas had reasonable suspicion to perform a *Terry* stop and to detain Milla. Because the officers had reasonable suspicion, the subsequent pat-down of Milla and the search of his car were also deemed reasonable considering the totality of the circumstances. Finding no constitutional violation, the court concluded that Brown and McComas were entitled to qualified immunity. Displeased with this result, Milla appealed, seeking review by the Fourth Circuit.

On appeal, the Fourth Circuit ultimately reversed and remanded the district court's judgment. The Court held that Officers Brown and McComas lacked sufficient, reasonable, and particularized suspicion regarding Milla and, therefore, should not have seized him or searched his vehicle.

The crux of Milla's appeal was his argument that the officers could not meet their burden of demonstrating that reasonable suspicion existed to justify the warrantless seizures. Officers Brown and McComas disagreed, citing several factors to justify their belief that reasonable suspicion to detain Milla was present: the late hour (4:30 a.m.), the close proximity of Milla's car to the victim, evidence suggesting the car had been recently operated, Milla's presence in his vehicle, the absence of other individuals in stopped vehicles in the area, the temporal proximity between the stabbing and the discovery of Milla's car, and Milla closing his door when approached by the officers.

In analyzing the officers' factor-based argument, the Court found that the factors cited, whether viewed separately or together, were insufficient for the officers to form the reasonable suspicion necessary to justify their actions. The officers lacked an objective basis to suspect that Milla specifically engaged in any crime, meaning they lacked the particularized basis for the stop.

Relying on Fourth Circuit precedent established in *United States v. Curry*, the Court reiterated that nearby exigent circumstances, like the recent stabbing in this case, do not justify a warrantless seizure of a person unless the seizure is narrowly targeted based on specific information of a known crime and controlled geographic area. Comparing the facts here to the *Curry* precedent, similarities emerged: the officers lacked a description of the suspect, did not know whether the suspect was in the vicinity, and did not know which direction he fled. These facts negated a finding of sufficient reasonable suspicion. The Court warned that allowing officers to bypass the individualized suspicion requirement based on such limited information would undermine fundamental Fourth Amendment protections.

The Court explained that the location of the possible nearby stabbing did not justify Milla's seizure. The anonymous tip further weakened the officers' argument, leading the Court to conclude that the tip alone was insufficient to provide reasonable suspicion. Factors such as the context of the stop, the crime rate in the area, and the nervous or evasive behavior of the suspect can create reasonable suspicion. However, claims based on the late hour or the nature of the neighborhood, without more, do little to support a claim of particularized suspicion. The Court reasoned that Brown and McComas seized Milla at 4:30 a.m., a time that could be considered nighttime or early morning, adding little to bolster their claim.

Furthermore, the proximity between Milla's car and the gas station where the stabbing occurred did not justify the stop, especially when police failed to show similar urgency regarding other potential suspects in the area and when no evidence suggested a vehicle was involved in the crime. The Circuit emphasized that individualized behavior is the only substantial basis for particularized suspicion.

Assessing Milla's actions—his slumped posture in the car seat and shutting the door when officers approached—the Court found these acts were not evasive but rather a decision to ignore the police. Refusal to cooperate or acknowledge police alone is not a basis for justifying a detention or seizure.

Citing *United States v. Foster*, the Fourth Circuit determined that a detective's knowledge of the defendant's past crimes, sudden movement in the car, and erratic arm actions did not provide enough basis for reasonable suspicion to warrant a stop. Comparing this case, the Court noted that Officers Brown and McComas had even less cause for suspicion, given they had no information about

Milla and approached in an unmarked vehicle. While courts often consider seemingly innocent factors, when viewed together, as potentially amounting to reasonable suspicion, that was not the case here.

The Fourth Circuit issued a cautionary word to the officers involved, denouncing their attempts to transform largely mundane acts into a web of deception.

Milla v. Brown, No. 21-1379 (4th Cir. 2024)

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