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Handcuffed on the Strip—Court Rules Visible Glock Justified Extra Restraint During Traffic Stop

By Daigle Law Group

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DAIGLE LAW GROUP

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The Ninth Circuit Court of Appeals recently issued a decision in *United States v. In*, 124 F.4th 790 (9th Cir. 2024), after the defendant, Larry In, was charged with being a felon in possession of a firearm following a traffic stop conducted by officers of the Las Vegas Metropolitan Police Department. This case offers essential guidance for law enforcement officers, considering the proper scope of their authority during investigative stops and examining when the use of handcuff restraints during a traffic stop may escalate a lawful detention into an unconstitutional de facto arrest.

Factual Background

On March 4, 2020, three officers from the Las Vegas Metropolitan Police Department's bicycle patrol squad noticed a vehicle with a defective taillight and California license plates illegally parked in a clearly marked no-parking zone about 50 feet away from the Vegas Strip. Approaching the vehicle, officers observed the defendant seated in the driver's seat and initiated contact, requesting standard documentation—driver's license, vehicle registration, and proof of insurance. A second officer used a flashlight to inspect the interior of the car, quickly spotting a Glock handgun openly visible on the backseat passenger-side floor. This discovery immediately heightened the officers' concerns for their safety. In response, officers instructed In to exit the vehicle, but at this point, In was in the process of gathering the requested documents. He complied when ordered to raise his hands. One officer physically opened the driver's door, placed a hand on In's wrist, unfastened his seatbelt, and carefully removed him from the vehicle, positioning him securely against the rear passenger door with his hands restrained behind his back. Officers began questioning In—asking first whether he had any weapons on his person or inside the vehicle. In responded, "No," despite the visible firearm. Officers further questioned him about prior arrests, and In disclosed only a marijuana-related arrest in California. The officers handcuffed him and again asked about any weapons in the car. In again claimed there were none. This prompted one officer to ask, "Why is there a Glock back there? You don't know now?" and he responded that he had just left the shooting range. When asked whether he was a felon, he explained that he was not and admitted ownership of the Glock. Officers conducted a routine Nevada criminal records check, which initially came back clear. However, given In's suspicious responses and initial dishonesty, officers decided to extend their check to interstate criminal records databases. This additional, non-routine records search uncovered prior felony convictions for In in California, confirming

he was prohibited from possessing firearms. Following this discovery, officers obtained a search warrant for the car, which led to In's formal arrest, search of the vehicle, and seizure of the firearm. In was charged in a federal indictment with being a felon in possession of a firearm.

Legal Framework

At the district court, he moved to suppress the evidence of the gun, arguing that the officers' actions of handcuffing him escalated a valid *Terry* stop into an unlawful de facto arrest because the officers handcuffed him before they had probable cause to believe that he was prohibited from possessing the gun. Initially, a federal magistrate judge reviewed this motion, held an evidentiary hearing, and recommended denying the suppression request. The district court disagreed, concluding the use of handcuffs prematurely transformed the investigative stop into a de facto arrest without the necessary probable cause, and ultimately granted In's motion to suppress. On appeal to the Ninth Circuit, the government urged the Court to reverse the district court's order granting In's suppression motion, arguing that the officers' use of handcuffs during the traffic stop was reasonable under the circumstances and did not escalate the encounter from a valid investigative stop into a de facto arrest.

United States Court of Appeals for the Ninth Circuit

When the case reached the Circuit, the Court reversed the district court's order granting the suppression motion, remanding the case for trial. The Ninth Circuit considered several critical issues upon reviewing the case. First, whether the investigative traffic stop escalated into a de facto arrest. The Court held that the use of handcuffs during a *Terry* stop does not automatically escalate it into a de facto arrest requiring probable cause, as long as the use of handcuffs is reasonable under the totality of the circumstances. Second, whether officers had adequate justification to apply restraints during the stop, and third, whether officers possessed a reasonable and sufficient basis to fear for their safety. The Court held that, in considering the totality of the circumstances, including the presence of an unsecured gun in the vehicle and the defendant's initial dishonesty about having a gun, the officers had a reasonable basis to fear for their safety, justifying the use of handcuffs during the investigation. Addressing these points, the Court emphasized the precedent from the Supreme Court's decision in *United States v. Sharpe*, clarifying that at some point, an investigative stop can no longer be justified as an investigative stop and turns into an unconstitutional de facto arrest. To determine whether a *Terry* stop becomes a de facto arrest, the Court considers the totality of the circumstances, including (1) the severity of the intrusion, (2) the aggressiveness of the officer's actions, and (3) the reasonableness of the officer's methods under the circumstances.

As established in *United States v. Edwards*, 761 F.3d 977, 981 (9th Cir. 2014), when considering the reasonableness of the officer's methods under the circumstances, the Court asks "whether the officer had sufficient basis to fear for his or her safety to warrant the intrusiveness of the action taken." The Court took the opportunity to note that this question is undertaken from the perspective of law enforcement, while bearing in mind that the purpose of a *Terry* stop is to allow the officer to pursue his investigation without fear of violence. The Circuit clarified that courts have permitted use of "especially intrusive means" during *Terry* stops when: (1) the suspect is uncooperative or poses a risk of danger or flight; (2) police have information the suspect is armed; (3) the stop closely follows a violent crime; or (4) police have information a potentially violent crime is imminent. Applying these standards to the present case, the Ninth Circuit determined that the officers' decision to handcuff In, while certainly more intrusive than typical traffic stops, was justified and reasonable given the circumstances. The presence of an unsecured, visible firearm and In's initial dishonesty significantly contributed to the officers' legitimate safety concerns. The risk was heightened by the stop's location—near the busy Strip—and the fact that the officers were on bicycles without the protection of a patrol car. Since these officers lacked access to patrol vehicles, handcuffing was a practical and necessary precaution because they could not safely secure the suspect elsewhere to prevent In from potentially accessing the firearm.

Ultimately, the Ninth Circuit reversed the district court's suppression order and remanded the case for trial. Because the officers' conduct was reasonable under the circumstances, the *Terry* stop did not escalate into a de facto arrest without probable cause but rather was a justified precaution during the investigative detention.

United States v. In, 124 F.4th 790 (9th Cir. 2024)

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