

Mufflers, Motives, and Mixed Messages: Impoundment and Inventory Searches Under the Fourth Amendment

Description

The United States Court of Appeals for the Tenth Circuit recently released an opinion in *United States v. Ulibarri*, a case that highlights Fourth Amendment issues regarding the validity of traffic stops based on reasonable suspicion, vehicle impoundments when there are mixed motives, and inventory searches.

Summary of Facts

In May 2021, Officer Lucas Perez and Officer Elsman of the Albuquerque Police Department heard a loud car exhaust. They followed the noise to a vehicle because it sounded like a potential violation of Albuquerque's excessive vehicular noise ordinance. The vehicle was identified as belonging to Manuel Ulibarri and was subsequently pulled over. When Ulibarri stopped, his car was straddling two parking spaces.

The officers approached Ulibarri and informed him that the loud exhaust was the reason for the stop. Officer Elsman asked whether Ulibarri had any weapons after noticing ammunition in the back seat. Ulibarri stated that his son had been playing with the bullets and that he did not have any weapons.

The officers then checked Ulibarri's record and discovered two outstanding misdemeanor warrants, both of which permitted release upon the posting of bond. Officer Perez informed Officer Elsman of his intent to arrest Ulibarri and advised him to be cautious. The officers proceeded to arrest Ulibarri. Ulibarri acknowledged the warrants and requested to pay bond at a nearby bond window. Officer Perez told him that it might be an option.

Upon arresting Ulibarri, Officer Elsman immediately called for a tow truck. While the officers were walking Ulibarri to the patrol car, he admitted that there was a firearm under one of the front seats and requested that his mother be allowed to pick up the vehicle. The officers did not respond, leading Ulibarri to ask again. The officers declined, later testifying that they were concerned about leaving the vehicle unattended in a high-crime area, the car's improper parking across two metered spaces, and the risk of the firearm being stolen.

As the tow truck arrived, Ulibarri's mother also arrived at the scene and requested to take possession of the vehicle. The officers declined, citing safety concerns and the stage of the impoundment process. The officers then conducted an inventory search of the vehicle in accordance with department policy. Although not all contents were meticulously itemized at the time of the search, officers discovered and later logged a loaded handgun under the driver's seat, a loaded rifle in the back seat, approximately \$10,000 in cash, and fentanyl.

Ulibarri was ultimately charged with possession with intent to distribute fentanyl and possession of a firearm in furtherance of drug trafficking. He moved to suppress the evidence, arguing that the stop, impoundment, and inventory search were unconstitutional under the Fourth Amendment. The district

court denied the motion. Ulibarri pleaded guilty and appealed to the Tenth Circuit Court of Appeals.

United States Court of Appeals for the Tenth Circuit

On appeal, Ulibarri challenged the traffic stop, impoundment, and inventory search as unlawful violations of his Fourth Amendment rights. The court first addressed Ulibarri's argument that there was no reasonable suspicion to justify the traffic stop.

The Tenth Circuit cited the longstanding precedent of *Terry v. Ohio*, which allows police officers to conduct investigatory stops based on reasonable suspicion. Albuquerque prohibits muffler modifications that increase noise above that emitted by the motor vehicle as originally manufactured and also has an ordinance prohibiting excessive vehicular noise. In this case, Ulibarri's muffler generated noise that officers heard from two blocks away. The officers were able to identify Ulibarri's vehicle based on the loud noise. Body camera footage corroborated that the exhaust was louder than normal and showed Ulibarri's mother identifying the vehicle by its noise.

Ulibarri argued that there was no evidence of an illegally modified muffler. The court rejected this argument, finding it irrelevant because the ordinance only requires that mufflers be maintained to prevent excessive noise. The court concluded that the loud exhaust noise was sufficient to establish reasonable suspicion for the stop.

The court next addressed Ulibarri's claim that officers impounded the vehicle solely to search for evidence. Impoundment is a seizure that typically requires a warrant, but exceptions apply. The Tenth Circuit cited *United States v. Venezia*, which outlines the community-caretaking doctrine. This doctrine allows officers to act as caretakers of the community by taking reasonable actions to protect public safety or property, even when not investigating a crime. Such actions must be objectively reasonable and not merely a pretext to search for evidence.

The court acknowledged that Officer Perez may have partially intended to search for evidence but also found that Ulibarri was lawfully arrested on outstanding warrants. The Tenth Circuit concluded that Officer Perez had mixed motives for impounding the vehicle. The court considered the improper parking across two spaces, the high-crime area, and the concern about leaving a firearm unattended. The court emphasized that mixed motives do not invalidate an impoundment carried out for a legitimate public safety or regulatory purpose. Accordingly, the court rejected Ulibarri's argument.

Ulibarri also argued that the inventory search was unconstitutional. An inventory search does not violate the Fourth Amendment if it is conducted in accordance with standardized police procedures and for the purpose of protecting the vehicle and its contents. An inventory search becomes unconstitutional if it is merely a pretext for discovering incriminating evidence.

In this case, the search was conducted pursuant to department inventory policy, which permits documenting a vehicle's contents prior to towing. Although the officers' record-keeping was less than perfect, the court found that the inventory search was a routine administrative procedure and not a pretext for a criminal investigation. Ulibarri failed to present evidence that officers acted in bad faith or solely for investigative purposes. The search was therefore deemed reasonable.

Key Takeaways

Ulibarri emphasizes that traffic stops are justified when officers have reasonable suspicion based on specific facts. Excessive noise alone may satisfy this standard if it potentially violates a local ordinance. The case also confirms that vehicles may be impounded without a warrant for legitimate public safety reasons, such as improper parking or preventing theft or vandalism, even when officers have mixed motives.

The case reinforces that officers are not only tasked with investigating crimes but also with maintaining public safety and order. Finally, *Ulibarri* underscores the importance of following department policy during inventory searches. While perfect record-keeping is not required, inventory procedures must substantially comply with administrative standards and must not be used as a guise for evidence gathering.

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