

## Reasonable Suspicion is Enough to Extend a Traffic Stop

### Description

As we say at DLG, traffic stops are the bread and butter of police work and often lead to great cases when we look beyond the plate. Of course, the courts have established rules of engagement that place restrictions on just how long that extra look can last. As the Supreme Court noted in *Rodriguez v. United States*, 135 S.Ct. 1609 (2015), a traffic stop can become unlawful if it is prolonged beyond the time reasonable to complete the mission of issuing a ticket.

In addition to issues surrounding extending the initial traffic stop, we have also dealt with traffic stop cases involving rental cars and the standing of a passenger to challenge the stop. Today's case, *United States vs Davis*<sup>[1]</sup>, marries all these issues – an extended stop of a rental vehicle and a claim made by the passenger that the stop was improper. So, let's head off to the 8<sup>th</sup> Circuit and see what the court had to say.

### FACTS

Sergeant Mike Kober of the Iowa State Patrol initiated a traffic stop for speeding. The officer spoke with the driver – Noah Pope – and observed the defendant – Dylan Davis – asleep in the passenger seat. Pope informed the officer that he was driving a rental car that was rented by a friend in Georgia and he did not have a copy of the rental agreement. While Pope rummaged around in his backpack looking for his license, the officer observed several small baggies in the backpack. The officer also testified that Pope appeared to be nervous, shaky and breathing heavily. Pope retrieved his license and provided it to the officer. By this point Davis was awake and provided his name and DOB on a piece of paper.

The officer noticed a long gun case in the back seat and when questioned Pope stated the case contained a 9-millimeter. The officer retrieved the case and secured a 9mm pistol. Kober returned to his car and ran checks on the two men and the handgun. Kober also had dispatch call the rental company to determine if the rental company wanted the car to be towed. The rental company requested that the vehicle be towed and a tow truck was summoned. At this point, 26 minutes had passed since the initial stop for speeding.

Kober returned to the vehicle, issued Pope a ticket for speeding and advised him the vehicle would be towed. Officers then conducted an inventory search of the vehicle and uncovered methamphetamine, marijuana and additional drug paraphernalia. Pope and Davis were arrested and later indicted by a federal grand jury for drug and weapons charges.

Davis filed a suppression motion in the district court claiming that the traffic stop was unreasonably extended past the time necessary to take the enforcement action for speeding and the search was an unlawful pretextual search. The district court agreed with Davis and suppressed the evidence. This appeal was filed by the US Attorney's office.

### 8th Circuit Findings

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The 8<sup>th</sup> Circuit quickly determined that Davis had no reasonable expectation of privacy in the vehicle. The court noted that Davis was asleep and had no driver's license, he never asserted control over the vehicle or was allowed to drive it.

However, the court stated that Davis could still challenge the search on the grounds that he was unlawfully seized and the search resulted from the improper seizure. The court cited several 8<sup>th</sup> Circuit and SCOTUS cases affirming that a passenger can be unreasonably seized during a traffic stop.

The court then reviewed the facts available to Sgt. Kober to determine if he had reasonable suspicion to extend the stop. The court noted the following elements in determining that the officer had ample information to support reasonable suspicion:

- The officer observed several small baggies in the backpack;
- Pope was extremely nervous;
- Neither passenger was listed on the rental agreement and the renter was not present; and
- The officer retrieved a loaded pistol from the rear seat.

The court further observed that traveling in a vehicle with a loaded firearm is a crime in Iowa and a strong indicator of drug trafficking. While the court did not address whether Kober had probable cause to search the vehicle, the court opined the Sergeant may have had probable cause to search the vehicle or arrest Davis.

The court concluded that Sgt. Kober had ample reasonable suspicion to extend the stop and, therefore, the seizure was proper and Davis had no standing to challenge the search. The district court's ruling was reversed and the case will now head back to the trial court.

## WRAP UP

The 8<sup>th</sup> Circuit highlights a number of factors in this case that can help build reasonable suspicion allowing a motor vehicle stop to be extended. One word of caution: the 8<sup>th</sup> Circuit limited its ruling to the specific circumstances of this case. As the court noted: *Reasonable delays prevented Sgt. Kober from immediately verifying the passengers' information and the statuses of the gun and SUV to satisfy those suspicions. Under different circumstances a delay of this length or shorter could be unreasonable.* It has become routine practice for the courts to review car video and body-worn camera footage to determine time frames down to the second.

1. *United States v Davis*, 943 F.3d 1129 (8<sup>th</sup> Cir. 2019) [a??](#)

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