

SUPREME COURT OF MONTANA

State v. Trombley

327 Mont. 507 (Mont. 2005) · No. 04-317 · Decided July 12, 2005

SUMMARY

The Montana Supreme Court held that a police officer had particularized suspicion to conduct an investigatory traffic stop after observing the defendant make an erratic U-turn, drift over the fog line, straddle the center line, and fail to signal. The court affirmed the district court’s decision upholding the municipal court’s denial of the defendant’s motion to dismiss.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Patricia O. Cotter; James C. Nelson; John Warner; W. William Leaphart; Brian Morris
JURISDICTION	Montana
DECIDED	July 12, 2005
DOCKET	04-317
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from the Eighteenth Judicial District Court's order affirming the denial of his motion to dismiss a DUI charge for lack of particularized suspicion supporting the traffic stop.
STANDARD OF REVIEW	The grant or denial of a motion to dismiss in a criminal proceeding is reviewed for correctness of the district court's legal conclusion. The district court's determination regarding particularized suspicion is reviewed under the clearly erroneous standard.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Robert Trombley v. State of Montana

TOPICS

- search and seizure
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- Criminal procedure
- Traffic stops
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court properly affirmed the Municipal Court's denial of Trombley's motion to dismiss for lack of particularized suspicion.
2. Whether an officer's mistaken belief that Trombley's U-turn was illegal rendered the investigatory stop unlawful despite other observed erratic driving.

HOLDINGS

1. The officer had the requisite particularized suspicion to conduct an investigatory stop because the totality of the circumstances, including Trombley's drifting over the fog line, straddling the center line, erratic lane movement, and failure to signal, supplied objective data from which the officer could infer that Trombley was engaged in wrongdoing.
2. An officer's mistaken belief that a U-turn violated state law does not invalidate an investigatory stop when other observed circumstances independently establish particularized suspicion.

KEY QUOTATIONS

“To determine whether particularized suspicion exists to justify an investigative stop, the State must show: (1) objective data from which an experienced officer could make certain inferences, and (2) a resulting suspicion that the occupant of the vehicle in question is or has been engaged in some wrongdoing.” (¶ 9)

“Whether a particularized suspicion exists is a question of fact dependent on the totality of the circumstances surrounding the investigative stop.” (¶ 9)

FACTUAL BACKGROUND

A police officer observed Trombley make a U-turn, drift over the fog line, overcorrect into another lane, continue driving in the wrong lane, and straddle the yellow center line while passing through an intersection. The officer also observed Trombley fail to signal while moving between lanes. The officer stopped Trombley, and the stop led to his arrest and eventual DUI conviction.

PROCEDURAL HISTORY

Trombley was convicted of DUI in Bozeman Municipal Court after a police officer stopped his vehicle. The Municipal Court denied his motion to dismiss for lack of particularized suspicion. The Eighteenth Judicial District Court concluded that the U-turn itself was not prohibited by state law but affirmed on the ground that the totality of the circumstances supported particularized suspicion. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- City of Missoula v. O'Neill, 2004 MT 328, ¶ 5, 324 Mont. 124, 102 P.3d 21
- State v. Steen, 2004 MT 343, ¶ 5, 324 Mont. 272, 102 P.3d 1251

- State v. Steen, 2004 MT 343, ¶ 7, 324 Mont. 272, 102 P.3d 1251
- Moore v. State, 2002 MT 315, ¶ 10, 313 Mont. 126, 61 P.3d 746
- State v. Farabee, 2000 MT 265, ¶ 19, 302 Mont. 29, 22 P.3d 175

OPINION

COTTER, J.

116 P.3d 771 (2005) 2005 MT 174 327 Mont. 507 STATE of Montana, Plaintiff and Respondent, v. Robert TROMBLEY, Defendant and Appellant. No. 04-317. Supreme Court of Montana. Submitted on Briefs May 18, 2005. Decided July 12, 2005.

For Appellant: Anna S. Hughes, Hughes Law Firm, PLLC, Bozeman, Montana. For Respondent: Mike McGrath, Montana Attorney General, Jennifer Anders, Assistant Attorney General, Helena, Montana; Paul Luwe, Bozeman City Attorney, Susan Wordal, Assistant City Attorney, Bozeman, Montana. Justice PATRICIA O. COTTER delivered the Opinion of the Court. ¶ 1 Robert Trombley (Trombley), appeals from an order of the Eighteenth Judicial District Court, Gallatin County, finding that a police officer had the requisite particularized suspicion necessary to make an investigatory stop of his vehicle.

We affirm. ¶ 2 The sole issue on appeal is whether the District Court properly affirmed the Municipal Court's denial of Trombley's motion to dismiss for lack of particularized suspicion. *772 BACKGROUND ¶ 3 On December 28, 2001, a police officer driving north on North 7th Avenue in Bozeman saw Trombley driving south on the same street, and observed him make a U-turn into the east northbound lane, drift over the fog line, overcorrect into the west northbound lane, and then continue north in the west northbound lane of North 7th Avenue.

The officer also observed Trombley straddle the yellow center line while driving through an intersection. The officer activated his video camera and initiated a stop of Trombley. The officer's stop lead to Trombley's arrest for DUI. Trombley was ultimately convicted of the offense in Bozeman Municipal Court. ¶ 4 Before trial, Trombley filed a motion to dismiss the charge, arguing that the officer did not have the requisite particularized suspicion necessary to initiate a traffic stop.

The Municipal Court rejected the claim based on its finding Trombley violated state law when he executed the U-turn on North 7th Avenue. Trombley appealed to the District Court. The District Court concluded that state law did not prohibit Trombley's U-turn and determined that the Municipal Court erred in relying upon this alleged violation to justify the traffic stop.

The court, however, concluded that the totality of circumstances, including the erratic nature of the U-turn, Trombley's straddling of the double yellow line, and his drifting over the fog line, all factored into the officer's decision to initiate a stop of Trombley's vehicle, and rose to the level of

particularized suspicion necessary to justify the stop. Trombley now appeals from the District Court's decision.

STANDARD OF REVIEW ¶ 5 The grant or denial of a motion to dismiss in a criminal proceeding is a question of law, which we review to determine whether the district court's conclusion of law is correct. *City of Missoula v. O'Neill*, 2004 MT 328, ¶ 5, 324 Mont. 124, ¶ 5, 102 P.3d 21, ¶ 5. When the question is one of particularized suspicion, the district court's determination in that regard is reviewed under the clearly erroneous standard.

State v. Steen, 2004 MT 343, ¶ 5, 324 Mont. 272, ¶ 5, 102 P.3d 1251, ¶ 5. DISCUSSION ¶ 6 Did the District Court properly affirm the Municipal Court's decision denying Trombley's motion to dismiss for lack of particularized suspicion? ¶ 7 Trombley maintains the officer's belief that his U-turn was illegal was a mistake of law, and that the District Court should have therefore reversed the Municipal Court's denial of his motion to dismiss.

He contends the District Court improperly considered evidence unsupported by the record when it took into account factors other than Trombley's U-turn. ¶ 8 The State argues the totality of the circumstances demonstrate that a particularized suspicion existed to stop Trombley because the officer had objective data from which he could make certain inferences, when he witnessed Trombley drift over the fog line, fail to signal while switching from the east northbound lane to the west northbound lane, and straddle the yellow center line.

We agree with the State. ¶ 9 To determine whether particularized suspicion exists to justify an investigative stop, the State must show: (1) objective data from which an experienced officer could make certain inferences, and (2) a resulting suspicion that the occupant of the vehicle in question is or has been engaged in some wrongdoing. *Steen*, ¶ 7 (citation omitted).

"Whether a particularized suspicion exists is a question of fact dependent on the totality of the circumstances surrounding the investigative stop." *Steen*, ¶ 7 (citing *Moore v. State*, 2002 MT 315, ¶ 10, 313 Mont. 126, ¶ 10, 61 P.3d 746, ¶ 10). Particularized suspicion, however, does not require certainty on the part of the law enforcement officer. *Steen*, ¶ 14 (citing *State v. Farabee*, 2000 MT 265, ¶ 19, 302 Mont.

29, ¶ 19, 22 P.3d 175, ¶ 19). ¶ 10 We are not persuaded by Trombley's assertion that a mistake of law regarding the legality of the U-turn renders the officer's stop unjustified. The existence of particularized suspicion depends on the totality of the circumstances. *Steen*, ¶ 7.

As the State points out, the officer testified during the hearing on Trombley's motion to dismiss, that he observed other erratic driving maneuvers, including straddling the center yellow line while driving through an intersection, drifting over the fog line, and failing to signal while he moved from the east northbound lane to the west northbound lane. These events constitute enough

objective data from which the officer could make certain inferences about Trombley, resulting in a suspicion that Trombley was engaged in some sort of wrongdoing.

Thus, the officer in this case had the requisite particularized suspicion to stop Trombley's vehicle.

¶ 11 Accordingly, the District Court's finding that the officer had a particularized suspicion sufficient to justify the investigatory stop of Trombley was not clearly erroneous.

The District Court therefore did not err in upholding the decision of the Municipal Court. ¶ 12 Affirmed. JAMES C. NELSON, JOHN WARNER, W. WILLIAM LEAPHART and BRIAN MORRIS, JJ., concur.