

**OHIO COURT OF APPEALS, FIRST APPELLATE DISTRICT, HAMILTON
COUNTY**

State v. Brown

2021-Ohio-2193 (Ohio Ct. App. 2021) · No. C-190755 · Decided June 30, 2021

SUMMARY

The Ohio First District Court of Appeals affirmed the Hamilton County Municipal Court’s suppression of evidence obtained after Maurice Brown’s vehicle was stopped and searched. The court held that the officer’s observations of Brown following another vehicle and looking toward a traffic stop, without additional specific and articulable facts connecting Brown to drug trafficking, amounted only to a hunch and did not establish reasonable suspicion for an investigatory stop.

CASE DETAILS

COURT	Ohio Court of Appeals, First Appellate District, Hamilton County
WRITING FOR THE COURT	Presiding Judge Zayas; Judge Crouse; Judge Winkler
JURISDICTION	Ohio
DECIDED	June 30, 2021
DOCKET	C-190755
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State of Ohio appealed the Hamilton County Municipal Court's order granting Maurice Brown's motion to suppress evidence obtained after a vehicle stop and search.
STANDARD OF REVIEW	Suppression rulings present a mixed question of law and fact. The appellate court accepts factual findings supported by competent and credible evidence but reviews de novo the application of law to those facts; because the parties did not dispute the facts, the court reviewed the legal determination de novo.
PRECEDENTIAL VALUE	published
PARTIES	State of Ohio v. Maurice Brown

TOPICS

suppression of evidence

fourth amendment

search and seizure

criminal procedure

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether the officer had a reasonable, articulable suspicion that Brown was engaged in criminal activity sufficient to justify the investigatory stop of his vehicle.
2. Whether the trial court properly granted Brown's motion to suppress evidence obtained after the stop, canine detention, and search.

HOLDINGS

1. The officer lacked reasonable, articulable suspicion to stop Brown because the facts showed only that Brown was behind another vehicle, followed it from a location where a drug transaction had occurred, and appeared to look toward officers; those facts, without specific evidence that Brown was engaged in drug trafficking or counter-surveillance, amounted to an insufficient hunch.

KEY QUOTATIONS

“The fact the Brown’s car was behind the pickup truck and that Brown may have looked at the officers while passing the pickup truck is insufficient to establish reasonable suspicion of drug trafficking.” (¶ 25)

“Absent any specific, articulable facts indicating that Brown was engaged in drug trafficking, Sullivan’s “hunch” that Brown was conducting counter surveillance was insufficient to establish a reasonable suspicion to believe that Brown was committing a crime.” (¶ 25)

FACTUAL BACKGROUND

A Cincinnati police officer conducting drug-trafficking surveillance at a market observed a known drug offender engage in a hand-to-hand transaction and leave in a red pickup truck. Maurice Brown was parked behind the truck, followed it from the market, briefly slowed while looking toward officers conducting a traffic stop of the truck, and then entered a parking garage. The officer requested that Brown be stopped for a drug investigation, although he had observed no traffic violation, drug transaction, or other specific criminal conduct by Brown. After an eighteen-minute wait for a canine, the dog alerted and officers found a digital scale containing cocaine residue in Brown's vehicle.

PROCEDURAL HISTORY

Brown was charged in Hamilton County Municipal Court with possession of drug paraphernalia and moved to suppress evidence recovered from his vehicle. After a suppression hearing, the municipal court granted the motion, and the state appealed. The First District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Showes, 1st Dist. Hamilton No. C-180552, 2020-Ohio-650, ¶ 9
- State v. Bobo, 37 Ohio St.3d 177, 179, 524 N.E.2d 489 (1988)
- Terry v. Ohio, 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)
- State v. Freeman, 64 Ohio St.2d 291, 414 N.E.2d 1044 (1980)
- In re J.C., 1st Dist. Hamilton Nos. C-180478 and C-180479, 2019-Ohio-4815, ¶ 14
- State v. Jones, 70 Ohio App.3d 554, 556-557, 591 N.E.2d 810 (2d Dist. 1990)
- State v. Ramirez, 9th Dist. Medina No. 04CA0024-M, 2004-Ohio-6541, ¶¶ 8-9
- State v. Brown, 9th Dist. Summit Nos. 23076 and 23080, 2006-Ohio-6749, ¶¶ 2, 6, 11
- United States v. Del Vizo, 918 F.2d 821, 822, 826-827 (9th Cir. 1990)