

COURT OF APPEALS OF MARYLAND

Reginald Anthony Longshore v. State of Maryland, 399 Md. 486

924 A.2d 1129 (2007) · No. No. 139, September Term, 2004 · Decided June 8, 2007

SUMMARY

The Maryland Court of Appeals considers whether police officers' use of handcuffs during an investigative stop constituted an arrest requiring probable cause under the Fourth Amendment. The court reviews the circumstances surrounding the stop, including an informant's videotape, a drug-detection dog's alerts, and the subsequent vehicle search. It also discusses the standards governing appellate review of suppression rulings and the distinction between reasonable suspicion and probable cause.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Bell, C.J.; Raker, J.; Wilner, J.; Cathell, J.; Harrell, J.; Battaglia, J.; Greene, J.
JURISDICTION	Maryland
DECIDED	June 8, 2007
DOCKET	No. 139, September Term, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Longshore sought review of the denial of his motion to suppress evidence and his conviction for possession of cocaine with intent to distribute and possession of cocaine. The Court of Special Appeals affirmed, holding that the handcuffing constituted an arrest but that probable cause supported the arrest. The Court of Appeals granted Longshore's petition for certiorari and the State's conditional cross-petition.
STANDARD OF REVIEW	On review of a suppression ruling, the appellate court considers only the suppression-hearing record, accepts factual and credibility findings unless clearly erroneous, views the evidence and reasonable inferences in the light most favorable to the prevailing party, and reviews the application of law to those facts de novo. A probable-cause determination receives deference when the lower court had a substantial basis for its conclusion.

PRECEDENTIAL VALUE

Published precedential opinion of the Court of Appeals of Maryland

PARTIES

Reginald Anthony Longshore v. State of Maryland

TOPICS

suppression of evidence

fourth amendment

search and seizure

probable cause

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether Longshore was arrested, rather than merely detained, when police removed him from his vehicle and handcuffed him.
2. Whether probable cause supported that warrantless arrest under the totality of the circumstances.
3. Whether the initial failed drug-dog sniff and later inconsistent alerts materially undermined probable cause.
4. Whether evidence of Longshore's refusal to consent to a warrantless vehicle search was inadmissible and whether the trial court erred by denying a mistrial after the testimony was admitted.

HOLDINGS

1. Longshore was arrested when police asked him to leave his vehicle and placed him in handcuffs. Because he was not suspected of being armed or dangerous and there was no objective indication that he posed a flight risk, the handcuffing was not justified as a protective or flight-prevention measure during a Terry stop.
2. The circumstances did not provide a substantial basis for probable cause at the time Longshore was handcuffed and arrested. The failed initial drug-dog sniff was significant negative evidence, and the videotape, trace drugs in Carlson's vehicle, Longshore's prior drug arrests, and nervousness did not collectively establish probable cause.
3. A person's refusal to consent to a warrantless search of an automobile is inadmissible as evidence of guilt and cannot be used to establish reasonable suspicion or probable cause. The detective's testimony that Longshore refused consent was prejudicial, and the curative instruction did not cure the error; the trial court therefore abused its discretion by denying a mistrial.

KEY QUOTATIONS

"Because Longshore was neither a flight nor safety risk, there was no justification for placing Longshore in handcuffs. This was, therefore, no mere detention; it was, in fact, an arrest." (399 Md. at 506, 924 A.2d at 1146)

"The failed drug sniff is exactly the type of evidence that tends to undermine the conclusion of the presence of drugs. It is a negating factor that has a substantial impact on the determination of probable cause, and cannot

be lightly ignored.” (399 Md. at 517, 924 A.2d at 1156)

“A person's refusal to consent to a warrantless search cannot form the basis of reasonable suspicion or probable cause.” (399 Md. at 521, 924 A.2d at 1159)

FACTUAL BACKGROUND

A confidential informant claimed to have videotaped a drug transaction involving Longshore and John Carlson, but the videotape showed only the men entering a vehicle and no drugs, money, or paraphernalia. Police observed Longshore and the other men together and found trace amounts of drugs in Carlson's vehicle. A drug-detection dog initially failed to alert to Longshore's vehicle; after Longshore declined consent to search, police stopped him, handcuffed him while awaiting another scan, and the dog later gave inconsistent alerts before cocaine was found in the vehicle's ceiling console. At trial, a detective testified that Longshore had refused consent to search.

PROCEDURAL HISTORY

Police stopped Longshore after surveillance based on a confidential informant's videotape and drugs found in a companion's vehicle. Longshore was handcuffed while police obtained a second drug-dog scan of his vehicle; the dog eventually alerted inside the vehicle, and cocaine was found. The Circuit Court for Charles County denied suppression, and Longshore was convicted and sentenced to fifteen years, with ten years without parole. The Court of Special Appeals affirmed. The Court of Appeals reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment of the Court of Special Appeals and remand with instructions to remand the case to the Circuit Court for Charles County for further proceedings consistent with the opinion, including a new trial.

CASES CITED

- Terry v. Ohio, 392 U.S. 1 (1968)
- Bouldin v. State, 276 Md. 511, 350 A.2d 130 (1976)
- Grier v. State, 351 Md. 241, 718 A.2d 211 (1998)
- Morton v. State, 284 Md. 526, 397 A.2d 1385 (1979)
- Dixon v. State, 133 Md. App. 654, 758 A.2d 1063 (2000)
- In re David S., 367 Md. 523, 789 A.2d 607 (2002)
- Trott v. State, 138 Md. App. 89, 770 A.2d 1045 (2001)
- United States v. Sharpe, 470 U.S. 675 (1985)
- Illinois v. Gates, 462 U.S. 213 (1983)
- Maryland v. Pringle, 540 U.S. 366 (2003)

- McKay v. State, 149 Md. App. 176, 814 A.2d 592 (2002)
- Nieves v. State, 383 Md. 573, 861 A.2d 62 (2004)
- Florida v. Bostick, 501 U.S. 429 (1991)
- Florida v. Royer, 460 U.S. 491 (1983)
- Dorsey v. State, 276 Md. 638, 350 A.2d 665 (1976)
- Mapp v. Ohio, 367 U.S. 643 (1961)
- United States v. Watson, 423 U.S. 411 (1976)

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