

NEBRASKA SUPREME COURT

State v. Rivera

297 Neb. 709 (2017) · No. No. S-16-255 · Decided September 15, 2017

SUMMARY

The Nebraska Supreme Court affirmed the Court of Appeals’ decision upholding the denial of Jonathan J. Rivera’s motion to suppress evidence in a driving under the influence case. The court held that Rivera’s initial interaction with a conservation officer was a consensual, first-tier encounter and did not constitute a seizure because Rivera voluntarily stopped and was not blocked or otherwise compelled to stop. Because the encounter began without a seizure, the court concluded that the community caretaking exception was unnecessary, although the subsequent detention was supported by reasonable suspicion.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Per Curiam; Heavican, C.J.; Wright, J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Kelch, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	September 15, 2017
DOCKET	No. S-16-255
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rivera sought further review in the Nebraska Supreme Court after the Nebraska Court of Appeals affirmed the district court's affirmance of the county court's denial of his motion to suppress and his DUI conviction.
STANDARD OF REVIEW	For a Fourth Amendment suppression ruling, historical facts are reviewed for clear error, while whether those facts trigger or violate Fourth Amendment protection is reviewed independently as a question of law. When suppression is denied before trial and again upon renewed objection during trial, the appellate court considers all evidence from both the suppression hearings and the trial.
PRECEDENTIAL VALUE	Published opinion; binding Nebraska Supreme Court precedent.
PARTIES	Jonathan J. Rivera v. State of Nebraska

TOPICS

suppression of evidence

fourth amendment

search and seizure

standard of review

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether Rivera was seized within the meaning of the Fourth Amendment when he voluntarily stopped his vehicle after seeing a uniformed officer approach.
2. Whether the subsequent detention was constitutionally permissible based on the officer's observations of Rivera's bloodshot, watery eyes and slurred speech and Rivera's admission that he had been drinking.
3. Whether the community caretaking exception was necessary to justify the initial police-citizen encounter.
4. Whether the lower courts' correct result should be affirmed despite their reliance on incorrect reasoning.

HOLDINGS

1. The initial encounter was not a seizure because the officer did not use physical force or a show of authority that restricted Rivera's movement, and Rivera voluntarily stopped his vehicle.
2. The initial first-tier encounter promptly escalated to a second-tier encounter, and the officer's observations and Rivera's admission established reasonable suspicion that a crime was being committed; therefore, the subsequent detention was constitutionally permitted.
3. The community caretaking exception was unnecessary because no seizure occurred at the commencement of the encounter.
4. A correct result will not be set aside merely because the lower court reached it through incorrect reasoning.

KEY QUOTATIONS

"Thus, a seizure requires either a police officer's application of physical force to a suspect or a suspect's submission to an officer's show of authority." (715-716)

"Because there was no seizure at the commencement of the encounter, there was no need to apply the community caretaking exception." (716)

FACTUAL BACKGROUND

At approximately 10:35 p.m., two Nebraska Game and Parks Commission conservation officers were investigating groups of people near a dark, unmarked road in the Branched Oak Lake recreation area. Rivera approached in a vehicle, stopped behind the marked patrol vehicle, moved onto the grassy shoulder, and voluntarily stopped when he saw a uniformed officer approach; the officer did not block the vehicle, activate emergency lights or a siren, display a firearm, or gesture for Rivera to stop. During the initial interaction, the

officer observed that Rivera had bloodshot, watery eyes and slurred speech, and Rivera admitted he had consumed alcohol. The officer then detained Rivera for a DUI investigation, leading to his arrest.

PROCEDURAL HISTORY

The Lancaster County Court denied Rivera's pretrial and renewed trial motions to suppress, concluding that the officer's contact with Rivera fell within the community caretaking exception, and found Rivera guilty of driving under the influence. The Lancaster County District Court affirmed. The Nebraska Court of Appeals affirmed in a split decision, and the Nebraska Supreme Court granted further review. The Supreme Court affirmed the Court of Appeals, concluding that the encounter began without a seizure, although on grounds different from those used below.

DISPOSITION

affirmed

CASES CITED

- State v. Bakewell, 273 Neb. 372, 730 N.W.2d 335 (2007)
- State v. Rogers, 297 Neb. 265, 899 N.W.2d 626 (2017)
- State v. Avey, 288 Neb. 233, 846 N.W.2d 662 (2014)
- State v. Hedgcock, 277 Neb. 805, 765 N.W.2d 469 (2009)
- State v. Lee, 290 Neb. 601, 861 N.W.2d 393 (2015)
- State v. Draganescu, 276 Neb. 448, 755 N.W.2d 57 (2008)
- State v. Kolbjornsen, 295 Neb. 231, 888 N.W.2d 153 (2016)
- State v. Rivera, No. A-16-255, 2017 WL 977345 (Neb. App. Mar. 14, 2017)