

SUPREME COURT OF VERMONT

State v. Cunningham

183 Vt. 401 (Vt. 2008) · No. No. 06-024 · Decided April 11, 2008

SUMMARY

The Vermont Supreme Court held that police violated Article 11 of the Vermont Constitution by prolonging two traffic stops to conduct canine drug sniffs without a reasonable, articulable suspicion of drug activity. The court reversed the denial of the defendant's motion to suppress and remanded for further proceedings. The opinion did not reach the defendant's additional claims concerning the May 5 exit order and patdown search.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Reiber, C.J.; Dooley, J.; Johnson, J.; Skoglund, J.; Burgess, J.
JURISDICTION	Vermont
DECIDED	April 11, 2008
DOCKET	No. 06-024
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a district court order denying his motions to suppress evidence obtained after two traffic stops. He had entered conditional guilty pleas under V.R.Cr.P. 11(a)(2).
STANDARD OF REVIEW	The court reviewed the trial court's factual findings for clear error and its legal conclusions de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	John A. Cunningham v. State of Vermont

TOPICS

- suppression of evidence
- search and seizure
- fourth amendment
- criminal procedure

PRACTICE AREAS

- criminal procedure
- constitutional law
- evidence

QUESTIONS PRESENTED

1. Whether police unlawfully expanded two routine traffic stops into drug investigations and prolonged Cunningham's detention while awaiting canine units without a reasonable, articulable suspicion of drug-related criminal activity under Chapter I, Article 11 of the Vermont Constitution.
2. Whether the court should decide the constitutionality of the canine sniffs, the May 5 exit order, and the May 5 patdown search.

HOLDINGS

1. Under Article 11 of the Vermont Constitution, police may not prolong a routine traffic stop for forty-six minutes to await a canine unit when the totality of the circumstances does not establish a reasonable, articulable suspicion of present drug-related criminal activity.
2. The May 17 detention also violated Article 11 because the anonymous tip, the repeated passage of allegedly suspicious vehicles, and the officer's knowledge of Cunningham's prior drug involvement did not establish reasonable, articulable suspicion of present drug activity.
3. The court did not reach the constitutionality of the canine sniffs, the May 5 exit order, or the May 5 patdown search because the unlawful prolonged detentions independently required suppression.

KEY QUOTATIONS

“Under both the Fourth Amendment and Article 11, a traffic stop is a seizure and must be supported by a reasonable suspicion of criminal activity.” (1295)

“Article 11 does not permit prolonged detention based on an officer's having heard what amounts to little more than a rumor of wrongdoing.” (1297)

“The totality of the circumstances known to the officer at the time of the stop on May 5 did not support a reasonable suspicion of present illegal drug activity.” (1298)

FACTUAL BACKGROUND

On May 5, 2005, police stopped Cunningham after learning that his driver's license was suspended and then detained him for approximately forty-six minutes while awaiting a canine unit. The officer relied on anonymous or unverified information about Cunningham's alleged drug involvement, his nervousness, traffic-law violations, and his inability to explain why he was in Vergennes. On May 17, police stopped Cunningham for a malfunctioning brake light and again prolonged the detention while awaiting a canine unit, relying on an anonymous tip, vehicles repeatedly passing the stop, and Cunningham's prior drug-related encounter. The canine alerts led to warrant searches that uncovered cocaine and other evidence.

PROCEDURAL HISTORY

Defendant was charged with misdemeanor and felony cocaine possession based on evidence obtained during traffic stops on May 5 and May 17, 2005. The district court denied his motions to suppress, and defendant entered conditional guilty pleas preserving his suppression claims for appeal. The Vermont Supreme Court reversed and remanded.

DISPOSITION

REMAND INSTRUCTIONS

Remanded for further proceedings consistent with the opinion, including suppression of the evidence obtained from the May 5 and May 17 detentions.

CASES CITED

- State v. Freeman, 2004 VT 56, 177 Vt. 478, 857 A.2d 295
- United States v. Sharpe, 470 U.S. 675 (1985)
- State v. Sprague, 2003 VT 20, 175 Vt. 123, 824 A.2d 539
- Terry v. Ohio, 392 U.S. 1 (1968)
- State v. Chapman, 173 Vt. 400, 800 A.2d 446 (2002)
- State v. Gray, 150 Vt. 184, 552 A.2d 1190 (1988)
- State v. Berard, 154 Vt. 306, 576 A.2d 118 (1990)
- Pennsylvania v. Mimms, 434 U.S. 106 (1977)
- Commonwealth v. Gonsalves, 429 Mass. 658, 711 N.E.2d 108 (1999)
- State v. Hewey, 144 Vt. 10, 471 A.2d 236 (1983)
- State v. Langlois, 164 Vt. 173, 667 A.2d 46 (1995)
- United States v. Jones, 234 F.3d 234 (5th Cir. 2000)
- United States v. Sandoval, 29 F.3d 537 (10th Cir. 1994)
- State v. Boyea, 171 Vt. 401, 765 A.2d 862 (2000)
- State v. Lamb, 168 Vt. 194, 720 A.2d 1101 (1998)
- Alabama v. White, 496 U.S. 325 (1990)
- State v. Kennison, 134 N.H. 243, 590 A.2d 1099 (1991)
- Florida v. J.L., 529 U.S. 266 (2000)
- State v. Bauder, 2007 VT 16, 181 Vt. 392, 924 A.2d 38
- State v. Emilo, 144 Vt. 477, 479 A.2d 169 (1984)
- United States v. Lee, 73 F.3d 1034 (10th Cir. 1996)
- United States v. Holt, 264 F.3d 1215 (10th Cir. 2001)
- United States v. Fernandez, 18 F.3d 874 (10th Cir. 1994)
- United States v. Tapia, 912 F.2d 1367 (11th Cir. 1990)
- People v. Haley, 41 P.3d 666 (Colo. 2001)
- United States v. Givan, 320 F.3d 452 (3d Cir. 2003)
- United States v. Gonzalez, 328 F.3d 755 (5th Cir. 2003)
- United States v. Carrillo, 902 F.2d 1405 (9th Cir. 1990)
- State v. Phillips, 140 Vt. 210, 436 A.2d 746 (1981)

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