

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

United States v. Xzavione Taylor

60 F.4th 1233 (9th Cir. 2023) · No. 21-10377 · Decided March 1, 2023

SUMMARY

The Ninth Circuit affirmed the denial of Xzavione Taylor’s motion to suppress evidence discovered after a traffic stop. The court held that the officers did not unlawfully prolong the stop and that Taylor voluntarily consented to a search of his vehicle, which revealed a firearm. The court affirmed Taylor’s conviction but remanded for the written judgment to conform to the oral pronouncement concerning certain supervised-release conditions.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Daniel A. Bress; Lawrence VanDyke; Jane A. Restani, sitting by designation
JURISDICTION	Federal
DECIDED	March 1, 2023
DOCKET	21-10377
DISPOSITION	remanded
PROCEDURAL POSTURE	Taylor entered a conditional guilty plea to being a felon in possession of a firearm after the district court denied his motion to suppress. He appealed the suppression ruling and two supervised-release conditions.
STANDARD OF REVIEW	The denial of a motion to suppress is reviewed de novo, while the district court's factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	Published Ninth Circuit opinion; precedential.
PARTIES	Xzavione Taylor v. United States of America

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether officers unlawfully prolonged a traffic stop by asking Taylor about weapons, ordering him out of the vehicle, conducting a pat-down, and checking his criminal history without independent reasonable suspicion.
2. Whether officers had reasonable suspicion of an independent offense sufficient to justify any extension of the traffic stop.
3. Whether Taylor voluntarily, unequivocally, and specifically consented to a search of his vehicle for firearms.
4. Whether a supervised-release condition requiring Taylor to pay for treatment and vocational programs without reference to his ability to pay conflicted with the court's oral sentence.
5. Whether Standard Condition 12 of supervised release was unconstitutionally vague and overbroad.

HOLDINGS

1. The officers did not unreasonably prolong the traffic stop. Asking Taylor about weapons, asking him to exit the vehicle, conducting a criminal-history check, and taking related safety measures were within the lawful scope of the stop and did not measurably extend it in violation of the Fourth Amendment.
2. Even if the frisk and criminal-history check extended the stop beyond its original traffic mission, they were permissible because the officers had reasonable suspicion that Taylor unlawfully possessed a firearm.
3. Taylor voluntarily, unequivocally, and specifically consented to a search of the interior of his vehicle for firearms.
4. The written judgment had to be conformed to the oral pronouncement because the oral sentence required payment for outpatient substance-abuse treatment and vocational-services programs based on Taylor's ability to pay, while the written judgment omitted that limitation.
5. The court did not reach the merits of Taylor's challenge because Taylor conceded that Ninth Circuit precedent foreclosed the claim.

KEY QUOTATIONS

“There is no strong form “asked and answered” prohibition in a Fourth Amendment analysis, the touchstone of which is reasonableness.” (9)

“The officers’ subjective motivations, whatever they may have been, could not change the objective reasonableness of their actions.” (10)

“When Gariano asked if there were guns in the car and then asked if he could “check,” Taylor unambiguously responded, “it don’t matter to me.”” (17)

“When there is a discrepancy between an unambiguous oral pronouncement of a sentence and the written judgment, the oral pronouncement controls.” (18)

FACTUAL BACKGROUND

Police stopped Taylor after observing that the vehicle he was driving lacked license plates or temporary registration tags. Taylor had no identification and disclosed that he was on federal supervision for being a felon in possession of a firearm. After Taylor exited the vehicle, officers observed that he wore a distinctive, empty, unzipped fanny pack, conducted a pat-down and criminal-history check, and obtained his consent to search the vehicle. The search revealed a handgun under the driver's seat, and Taylor later admitted that he carried the gun for protection.

PROCEDURAL HISTORY

Taylor was stopped for driving without license plates or temporary registration tags. Officers discovered a firearm under the driver's seat after Taylor consented to a vehicle search. A magistrate judge recommended granting Taylor's suppression motion, but the district court rejected that recommendation, found that the stop was not unlawfully prolonged, and found that Taylor voluntarily consented to the search. Taylor entered a conditional guilty plea, was sentenced to twenty months' imprisonment and three years of supervised release, and appealed. The Ninth Circuit affirmed the conviction and suppression ruling but remanded to conform the written judgment to the oral sentence regarding payment for outpatient substance-abuse treatment and vocational-services programs.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the district court to conform the written judgment for Special Conditions One and Six to the oral pronouncement requiring Taylor to pay program costs based on his ability to pay. The conviction and suppression ruling were affirmed.

CASES CITED

- United States v. Bontemps, 977 F.3d 909, 913, 917 (9th Cir. 2020)
- Rodriguez v. United States, 575 U.S. 348, 354-58 (2015)
- Knowles v. Iowa, 525 U.S. 113, 117 (1998)
- United States v. Nault, 41 F.4th 1073, 1078-79, 1081 (9th Cir. 2022)
- Florida v. Royer, 460 U.S. 491, 500 (1983) (plurality opinion)
- Illinois v. Caballes, 543 U.S. 405, 407 (2005)
- Maryland v. Wilson, 519 U.S. 408, 413 (1997)
- Pennsylvania v. Mimms, 434 U.S. 106, 110-12 (1977) (per curiam)
- United States v. Williams, 419 F.3d 1029, 1030 (9th Cir. 2005)

- *Arizona v. Johnson*, 555 U.S. 323, 330-31 (2009)
- *Whren v. United States*, 517 U.S. 806, 814 (1996)
- *United States v. Magallon-Lopez*, 817 F.3d 671, 675 (9th Cir. 2016)
- *United States v. Hylton*, 30 F.4th 842, 847-48 (9th Cir. 2022)
- *United States v. Landeros*, *United States v. Landeros*, 913 F.3d 862, 867 (9th Cir. 2019)
- *United States v. Valdes-Vega*, 738 F.3d 1074, 1078 (9th Cir. 2013) (en banc)
- *Kansas v. Glover*, 140 S. Ct. 1183, 1188 (2020)
- *Illinois v. Wardlow*, 528 U.S. 119, 125 (2000)
- *United States v. Arvizu*, 534 U.S. 266, 273 (2002)
- *United States v. Garcia*, 909 F.2d 389, 391-92 (9th Cir. 1990)
- *Verdun v. City of San Diego*, 51 F.4th 1033, 1037-38 (9th Cir. 2022)
- *Schneckloth v. Bustamonte*, 412 U.S. 218, 219, 225, 227, 232-33 (1973)
- *United States v. Basher*, 629 F.3d 1161, 1167-68 (9th Cir. 2011)
- *United States v. Patayan Soriano*, 361 F.3d 494, 502 (9th Cir. 2004)
- *Culombe v. Connecticut*, 367 U.S. 568, 602 (1961)
- *Berkemer v. McCarty*, 468 U.S. 420, 440 (1984)
- *Florida v. Jimeno*, 500 U.S. 248, 251 (1991)
- *United States v. Gibson*, 998 F.3d 415, 423 (9th Cir. 2021)
- *United States v. Fifield*, 432 F.3d 1056, 1059 n.3 (9th Cir. 2005)

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