

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

United States v. Rakim Moberly

No. 20-5511, United States Court of Appeals for the Sixth Circuit (May 27, 2021)

SUMMARY

The Sixth Circuit affirmed the denial of a suppression motion, holding that an officer had reasonable suspicion to conduct a Terry stop and frisk based on an identifiable 911 caller's report of a disorder with a weapon, even though the suspect's clothing and vehicle color slightly differed from the description. The court found that the defendant waived his challenge to the initial stop in his conditional plea agreement, and that the officer's offhand remark about the caller's mental issues did not undermine the tip's reliability. The officer's observation of the defendant's nervous, defensive behavior and the scene matching the dispatch further justified the pat-down for weapons.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	ERIC L. KETHLEDGE; ALAN E. NORRIS; JOHN K. NALBANDIAN
JURISDICTION	Federal
DECIDED	May 27, 2021
DOCKET	20-5511
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from denial of motion to suppress evidence
STANDARD OF REVIEW	We review the district court's legal conclusions de novo and its factual findings for clear error, viewing the evidence in the light most favorable to the district court's decision.
PRECEDENTIAL VALUE	Unpublished
PARTIES	Rakim Moberly v. United States of America

TOPICS

[fourth amendment](#) [search and seizure](#) [criminal procedure](#) [appellate procedure](#)

PRACTICE AREAS

[Criminal Law](#) [Fourth Amendment](#)

QUESTIONS PRESENTED

1. Whether Moberly waived his challenge to the initial investigatory stop.
2. Whether Officer Bedtelyon had reasonable suspicion to believe that Moberly was armed and dangerous justifying a Terry frisk.

HOLDINGS

1. The court held that Moberly waived his argument because his plea agreement reserved only the right to appeal the district court's determination regarding reasonable suspicion for the frisk, and he admitted facts that made the stop lawful.
2. The court held that the officer had reasonable suspicion based on the totality of the circumstances: the 911 caller's report, the scene corroboration, Moberly's nervous behavior, and his admission of having a gun.

KEY QUOTATIONS

“Moberly first challenges the investigatory stop, arguing that Officer Bedtelyon had no reason to believe that he was engaged in criminal activity. The government responds that Moberly waived this argument in his plea agreement and can only challenge the subsequent frisk. We review de novo whether Moberly waived this argument. Moberly's appellate waiver reserved only his 'right to appeal the District Court's denial of his pretrial motion to suppress as stated in paragraph 1.' That first paragraph, in turn, reserved only 'the right to appeal the District Court's determination in denying his motion to suppress that on April 11, 2019, Officer Bedtelyon had reasonable and articulable suspicion to be [sic] believe he was armed and dangerous justifying a Terry pat-down frisk.’” (at 4)

“The touchstone of the Fourth Amendment is reasonableness, not perfection. Heien v. North Carolina, 574 U.S. 54, 60–61 (2014).” (at 5)

FACTUAL BACKGROUND

On April 11, 2019, a woman called 911 to report a 'disorder with a weapon' at her apartment complex. She identified herself and described the suspect as a black male with dreadlocks, a brown jacket, and a silver Oldsmobile. She reported that the suspect had a gun. Officer Ryan Bedtelyon responded and found a person matching the description, though the jacket and car color were slightly different. The officer engaged Moberly, who initially appeared nervous and agitated. When asked about weapons, Moberly initially denied having any but later admitted to having a gun in his left coat pocket. The officer recovered the firearm, which was stolen, and later discovered Moberly was a convicted felon. During arrest, drugs were found.

PROCEDURAL HISTORY

Moberly pled guilty to three firearm and drug-possession offenses, reserving the right to appeal the district court's denial of his suppression motion. The district court held an evidentiary hearing and denied the motion. Moberly entered a conditional guilty plea and was sentenced to 128 months' imprisonment.

DISPOSITION

affirmed

CASES CITED

- Terry v. Ohio, 392 U.S. 1 (1968)
- Robinson v. Howes, 663 F.3d 819 (6th Cir. 2011)
- Joshua v. DeWitt, 341 F.3d 430 (6th Cir. 2003)
- United States v. Pacheco, 841 F.3d 384 (6th Cir. 2016)
- United States v. McGilvery, 403 F.3d 361 (6th Cir. 2005)
- United States v. Johnson, 620 F.3d 685 (6th Cir. 2010)
- United States v. Toth, 668 F.3d 374 (6th Cir. 2012)
- United States v. Gatson, 776 F.3d 405 (6th Cir. 2015)
- United States v. McMullin, 739 F.3d 943 (6th Cir. 2014)
- Florida v. J.L., 529 U.S. 266 (2000)
- Heien v. North Carolina, 574 U.S. 54 (2014)
- Hill v. California, 401 U.S. 797 (1971)
- United States v. Collazo, 818 F.3d 247 (6th Cir. 2016)