

DISTRICT OF COLUMBIA COURT OF APPEALS

United States v. Glover

851 A.2d 473 (D.C. 2004) · No. No. 03-CO-1030 · Decided June 10, 2004

SUMMARY

The District of Columbia Court of Appeals reviewed the suppression of marijuana evidence discovered during a traffic stop. The court held that the stop, removal of the driver, and protective search of the passenger compartment could be permissible under the Fourth Amendment, but remanded for factual findings concerning the driver's reaching movement, whether officers ordered him to exit, and whether the seizure and opening of a burlap sack satisfied the plain-feel doctrine.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Glickman, Associate Judge; Steadman, Associate Judge; King, Senior Judge
JURISDICTION	District of Columbia
DECIDED	June 10, 2004
DOCKET	No. 03-CO-1030
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The United States appealed under D.C. Code § 23-104(a)(1) from an order granting Phillip Glover's motion to suppress marijuana and statements in a prosecution for possession of marijuana with intent to distribute.
STANDARD OF REVIEW	The appellate court deferred to the motions judge's factual findings unless clearly erroneous and reviewed legal conclusions de novo.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	United States v. Phillip M. Glover

TOPICS

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

PRACTICE AREAS

- Criminal procedure
- Fourth Amendment search and seizure
- Suppression of evidence
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the officers' stop of Glover's vehicle for an improperly displayed front license plate was lawful.
2. Whether blocking the vehicle, opening its door, ordering Glover to exit, and briefly pulling him from the vehicle transformed the traffic stop into an unlawful custodial detention or arrest.
3. Whether the officers had reasonable articulable suspicion that Glover was armed and dangerous sufficient to conduct a protective search of the vehicle.
4. Whether a protective search could extend beneath the driver's seat even though Glover had been removed from the vehicle and the area was not in plain view.
5. Whether the officer could seize and open the burlap sack under the Fourth Amendment's plain-feel doctrine.

HOLDINGS

1. The officers made a valid traffic stop because their observation that the front license plate was not securely fastened supplied objective grounds to believe a civil traffic infraction was occurring.
2. A lawful traffic stop is not transformed into a custodial detention or the functional equivalent of an arrest merely because the officers blocked the vehicle, opened the door, ordered Glover to exit, or briefly pulled him from the vehicle, assuming Glover made the reported suspicious reaching movement.
3. A frisk of Glover or a protective search of the vehicle required reasonable articulable suspicion, based on objective facts and circumstances, that Glover was armed or had access to a weapon and was dangerous; nervousness alone was insufficient on the record presented.
4. If the officer had sufficient reasonable suspicion to search for weapons, the protective search could extend beneath the driver's seat even though Glover had been removed from the vehicle and the area was not in plain view.
5. The record did not establish whether the officer lawfully seized and opened the burlap sack under the plain-feel doctrine; the trial court had to determine whether the sack's identity as contraband was immediately apparent without manipulation beyond what Terry permitted.

KEY QUOTATIONS

"We hold, however, that the police made a valid traffic stop, not a custodial detention, in the course of which they were permitted to open the door of Glover's car, order him to exit, and question him." (475-476)

"We further hold that the scope of a legitimate protective search extended to the area under the driver's seat because that area could have concealed a weapon and would have been within Glover's reach upon his return to the car." (476)

"However, where under 'plain feel' the officer is conducting a protective Terry search for weapons and does not yet have probable cause, 'the officer's `touch' of the object cannot go beyond the bounds circumscribed under Terry and thus cannot amount to the sort of evidentiary search that Terry expressly refused to authorize." (478)

FACTUAL BACKGROUND

Police observed Glover driving a car whose front license plate was improperly displayed on the dashboard and stopped the vehicle in an alley. During the stop, the officers observed nervousness and, according to their testimony, a sharp reaching movement by Glover toward the area beneath his seat; the trial judge did not resolve the conflicting testimony. An officer searched beneath the driver's seat, felt a closed burlap sack that he believed contained marijuana, opened it, and recovered marijuana, leading to Glover's arrest.

PROCEDURAL HISTORY

The trial court granted Glover's suppression motion on two Fourth Amendment grounds, ruling that the officers exceeded the permissible scope of a traffic stop by blocking Glover's vehicle, opening the door, removing him, and searching under the driver's seat. The District of Columbia Court of Appeals reversed the suppression ruling but remanded for factual findings concerning whether Glover made a suspicious reaching movement, whether the officers ordered him to exit, and whether the officer's handling of the burlap sack satisfied the plain-feel doctrine.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The motions judge must resolve whether Glover made the reported reaching movement, whether the officers ordered him to exit the vehicle, whether those facts supplied sufficient reasonable suspicion for a protective search, and whether the officer recognized the sack as contraband through permissible plain-feel perception without undue manipulation.

CASES CITED

- Carr v. United States, 758 A.2d 944, 945 (D.C. 2000)
- Whren v. United States, 517 U.S. 806, 808, 819 (1996)
- Lewis v. United States, 632 A.2d 383, 388 n.12 (D.C. 1993)
- Minnick v. United States, 607 A.2d 519, 524 (D.C. 1992)
- United States v. Mitchell, 951 F.2d 1291, 1295 (D.C. Cir. 1991)
- Berkemer v. McCarty, 468 U.S. 420, 436-37, 441-42 (1984)
- Pennsylvania v. Mimms, 434 U.S. 106, 111 n.6, 111-12 (1977)
- Maryland v. Wilson, 519 U.S. 408 (1997)
- State v. Ferrise, 269 N.W.2d 888, 890 (Minn. 1978)
- United States v. Stanfield, 109 F.3d 976, 983 (4th Cir. 1997)
- Hicks v. United States, 730 A.2d 657, 660 (D.C. 1999)
- Michigan v. Long, 463 U.S. 1032, 1049, 1051-52 (1983)
- Terry v. Ohio, 392 U.S. 1, 21 (1968)
- James v. United States, 829 A.2d 963, 965 (D.C. 2003)

- United States v. Evans, 994 F.2d 317, 319 (7th Cir. 1993)
- United States v. Green, 465 F.2d 620, 621 (D.C. Cir. 1972)
- Powell v. United States, 649 A.2d 1082 (D.C. 1994)
- Minnesota v. Dickerson, 508 U.S. 366, 375 (1993)
- Kenneth Dickerson v. United States, 677 A.2d 509, 512 (D.C. 1996)
- Ball v. United States, 803 A.2d 971, 975, 978 (D.C. 2002)
- Texas v. Brown, 460 U.S. 730, 741 (1983)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/district-of-columbia-district-of-columbia-court-of-appeals/2004/united-states-v-glover-r8msna7h>