

COURT OF APPEALS FOR THE NINTH DISTRICT OF TEXAS AT BEAUMONT

Diho Lloyd Brown v. the State of Texas

No. 09-24-00036-CR · No. No. 09-24-00036-CR · Decided January 28, 2026

SUMMARY

The Ninth District Court of Appeals of Texas affirmed Diho Lloyd Brown’s conviction for possession of a controlled substance and the denial of his motion to suppress. The court held that the traffic stop was supported by probable cause and that Brown voluntarily consented to the search of his person and shoe, without revoking that consent.

CASE DETAILS

COURT	Court of Appeals for the Ninth District of Texas at Beaumont
WRITING FOR THE COURT	W. Scott Golemon; W. Scott Golemon, C.J.; Wright, J.; Chambers, J.
JURISDICTION	Court of Appeals for the Ninth District of Texas at Beaumont
DECIDED	January 28, 2026
DOCKET	No. 09-24-00036-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brown appealed his conviction for possession of a controlled substance and the denial of his motion to suppress evidence obtained during a traffic stop and warrantless search.
STANDARD OF REVIEW	The court applied a bifurcated standard of review to the suppression ruling, giving almost total deference to the trial court's determination of historical facts and reviewing de novo the application of law to facts when that application did not depend on credibility or demeanor. The ruling would be sustained if correct under any applicable legal theory and reversed only if arbitrary, unreasonable, or outside the zone of reasonable disagreement.
PRECEDENTIAL VALUE	Nonprecedential; memorandum opinion marked Do Not Publish.
PARTIES	Diho Lloyd Brown v. The State of Texas

TOPICS

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

PRACTICE AREAS

Criminal procedure

Search and seizure

Appellate procedure

QUESTIONS PRESENTED

1. Whether the traffic stop was reasonable and supported by probable cause.
2. Whether Brown voluntarily consented to the warrantless search of his person and shoes.
3. Whether Brown revoked his consent by hesitating or initially failing to release his shoe.

HOLDINGS

1. The traffic stop was reasonable and supported by probable cause because the officer observed Brown traveling above the posted speed limit.
2. Brown voluntarily consented to the warrantless search of his person, including his shoes, and the consent was valid under the totality of the circumstances.
3. Brown did not revoke his consent; his hesitation and initial failure to release the shoe, followed by his ultimate release and continued cooperation, did not clearly communicate withdrawal of consent.

KEY QUOTATIONS

“We review a ruling on a motion to suppress utilizing a bifurcated standard of review, giving almost total deference to the trial court’s determination of historical facts and reviewing the application of law to the facts de novo when not based on credibility and demeanor.” (at 9)

“Therefore, based the totality of the circumstances and Brown’s actions, Brown consented to the search and did not revoke his consent.” (at 12)

FACTUAL BACKGROUND

A deputy stopped Brown after observing the pickup truck traveling approximately three miles per hour over the posted forty-mile-per-hour speed limit, and the truck took more than a minute to pull over. During the stop, Brown consented to searches of the vehicle and his person, stated that officers were more than welcome to search him, removed his left shoe when asked to let the officer see it, and ultimately released the shoe and handed over his right shoe. Officers observed a clear bag containing multicolored pills in the left shoe, and the trial court found that Brown had voluntarily consented and had not revoked that consent.

PROCEDURAL HISTORY

A Montgomery County grand jury indicted Brown for possession of a controlled substance and alleged two prior felony convictions for enhancement. After a suppression hearing, the 221st District Court of Montgomery County denied Brown's motion to suppress. A jury convicted Brown and sentenced him to forty years' imprisonment. Brown raised a sole appellate issue challenging the denial of suppression, and the court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Hubert v. State, 312 S.W.3d 554, 559 (Tex. Crim. App. 2010)
- Neal v. State, 256 S.W.3d 264, 281, 282 (Tex. Crim. App. 2008)
- Carmouche v. State, 10 S.W.3d 323, 327 (Tex. Crim. App. 2000)
- Lerma v. State, 543 S.W.3d 184, 190 (Tex. Crim. App. 2018)
- State v. Ross, 32 S.W.3d 853, 855-56 (Tex. Crim. App. 2000)
- State v. Castleberry, 332 S.W.3d 460, 465 (Tex. Crim. App. 2011)
- State v. Cortez, 543 S.W.3d 198, 203 (Tex. Crim. App. 2018)
- Reasor v. State, 12 S.W.3d 813, 817 (Tex. Crim. App. 2000)
- State v. Weaver, 349 S.W.3d 521, 526 (Tex. Crim. App. 2011)
- Bumper v. North Carolina, 391 U.S. 543, 548-49 (1968)
- Schneckloth v. Bustamonte, 412 U.S. 218, 227 (1973)
- Meeks v. State, 692 S.W.2d 504, 509-10 (Tex. Crim. App. 1985)
- Martinez v. State, 17 S.W.3d 677, 683 (Tex. Crim. App. 2000)
- Valtierra v. State, 310 S.W.3d 448-49 (Tex. Crim. App. 2010)
- Illinois v. Rodriguez, 497 U.S. 177 (1990)

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