

SUPREME COURT OF KANSAS

State v. Hamman, 273 Kan. 89

41 P.3d 809 (2002) · No. 86,509 · Decided March 8, 2002

SUMMARY

The Supreme Court of Kansas affirmed the denial of Ruth Hamman's motion to suppress evidence arising from a traffic stop conducted by a Coffey County deputy in Lyon County. The court held that the deputy's observations of erratic driving supplied probable cause for a citizen's arrest under Kansas law and independently justified the stop as a public-safety intervention. The court concluded that the deputy's lack of ordinary territorial jurisdiction did not invalidate the stop.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Allegrucci; Brazil
JURISDICTION	Kansas
DECIDED	March 8, 2002
DOCKET	86,509
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from district court convictions for driving under the influence and transporting an open container, following denial of a motion to suppress.
PRECEDENTIAL VALUE	Published
PARTIES	Ruth Hamman v. State of Kansas

TOPICS

- suppression of evidence
- probable cause
- search and seizure
- criminal procedure
- federalism

PRACTICE AREAS

- Criminal Law
- Criminal Procedure
- Constitutional Law

QUESTIONS PRESENTED

1. Whether Deputy Smith's traffic stop and detention of Hamman in Lyon County by a Coffey County deputy sheriff was illegal.

2. Whether the trial court properly denied Hamman's motion to suppress, given that Smith was outside his territorial jurisdiction and acting as a private person under K.S.A. 2001 Supp. 22-2403(2).
3. Whether Smith had probable cause to stop Hamman based on his observations of her driving.
4. Whether the stop was independently justified as a safety stop based on specific and articulable facts.

HOLDINGS

1. A law enforcement officer acting outside his territorial jurisdiction is treated as a private person under K.S.A. 2001 Supp. 22-2403(2). Because Deputy Smith personally observed Hamman's erratic driving indicating alcohol impairment, he had probable cause to believe she was committing the crime of DUI in his view, and the stop was lawful.
2. Smith's statement that he lacked probable cause for a formal arrest before conducting further investigation did not negate probable cause for the stop. At the moment he activated his emergency lights, he had a reasonable belief, based on his observation of Hamman's driving, that she was driving under the influence.
3. A vehicle stop may be justified solely by safety reasons based on specific and articulable facts, and the valid safety stop is not limited to the officer's home county.

KEY QUOTATIONS

"A person who is not a law enforcement officer may arrest another person when: (1) A felony has been or is being committed and the person making the arrest has probable cause to believe that the arrested person is guilty thereof; or (2) any crime, other than a traffic infraction or a cigarette or tobacco infraction, has been or is being committed by the arrested person in the view of the person making the arrest." (273 Kan. 93)

"Local police officers ... frequently investigate vehicle accidents in which there is no claim of criminal liability and engage in what, for want of a better term, may be described as community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." (273 Kan. 96)

FACTUAL BACKGROUND

Coffey County Deputy Sheriff Eric Smith, while driving through Lyon County after assisting at a boat ramp on the county line, observed Ruth Hamman's Plymouth Neon weaving within its lane, traveling about 40 m.p.h., and later, after turning onto a gravel road, drifting left of center, slowing nearly to a stop, and hugging the right side of the road. Smith stopped the vehicle. Upon approaching, he noticed Hamman had watery eyes, moved sluggishly, and smelled of alcohol. A Lyon County deputy arrived, investigated, and arrested Hamman for DUI and transporting an open container.

PROCEDURAL HISTORY

Hamman was charged in Lyon County District Court. The trial court denied her motion to suppress, concluding that Deputy Smith, acting as a private person, had probable cause to make a citizen's arrest. She was convicted of DUI and transporting an open container and appealed. The Kansas Court of Appeals transferred the case to the Kansas Supreme Court under K.S.A. 20-3018(c).

DISPOSITION

affirmed

CASES CITED

- State v. Miller, 257 Kan. 844, 896 P.2d 1069 (1995)
- State v. Shienle, 218 Kan. 637, 545 P.2d 1129 (1976)
- Key v. Hein, Ebert & Weir, Chtd., 265 Kan. 124, 960 P.2d 746 (1998)
- State v. Vistuba, 251 Kan. 821, 840 P.2d 511 (1992)
- Cady v. Dombrowski, 413 U.S. 433, 441 (1973)

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