

COURT OF APPEALS OF GEORGIA

Faulkner v. State, 277 Ga. App. 702

627 S.E.2d 423 (2006) · No. No. A05A2196 · Decided February 21, 2006

SUMMARY

The Georgia Court of Appeals affirmed the denial of Christopher Grant Faulkner’s motion to suppress and his convictions for driving under the influence and violating the open container law. The court held that the officers had reasonable, articulable suspicion to stop the vehicle based on a particularized BOLO and observed conduct, and that probable cause supported Faulkner’s DUI arrest based on his attempted flight, reckless driving, odor of alcohol, flushed face, and slurred speech.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Bernes, Judge; Bernes, J.; Smith, P.J.; Miller, J.
JURISDICTION	Georgia
DECIDED	February 21, 2006
DOCKET	No. A05A2196
DISPOSITION	affirmed
PROCEDURAL POSTURE	Faulkner appealed after the trial court denied his motion to suppress and found him guilty in a bench trial of driving under the influence of alcohol and violating the open container law.
STANDARD OF REVIEW	The evidence is construed in the light most favorable to upholding the trial court's findings and judgment. The trial court's factual and credibility determinations are accepted unless clearly erroneous.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Christopher Grant Faulkner v. The State

TOPICS

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

PRACTICE AREAS

- criminal procedure
- DUI
- evidence

QUESTIONS PRESENTED

1. Whether the investigatory stop of Faulkner's vehicle was supported by a reasonable, articulable suspicion of criminal activity.
2. Whether Faulkner's arrest for driving under the influence was supported by probable cause.

HOLDINGS

1. The stop was supported by a reasonable, articulable suspicion of criminal activity because the officers had particularized information linking the specifically described Jeep and its occupants to suspected impaired driving. In addition, Faulkner's subsequent attempt to flee and reckless driving constituted new criminal activity that would have purged any taint from an otherwise unlawful stop.
2. The arrest was supported by probable cause because the officers had reasonably trustworthy information establishing a probability that Faulkner had physically controlled a moving vehicle while under the influence of alcohol to a degree that rendered him incapable of driving safely.

KEY QUOTATIONS

“Particularized alerts issued by police officers for specifically described vehicles possibly involved in criminal activity have long served as a legitimate basis for investigatory stops.” (425)

“The test of probable cause requires merely a probability—less than a certainty but more than a mere suspicion or possibility.” (426)

FACTUAL BACKGROUND

An off-duty officer observed three men leaving a bar in an obviously intoxicated condition and later saw three men matching that description enter and speed away in a black Jeep Cherokee, jumping a curb. The officer broadcast a BOLO identifying the vehicle's color, make, model, number and race of occupants, location, and direction of travel; another officer located the vehicle about a block away approximately thirty seconds later. After the vehicle attempted to flee and crashed into a curb, officers observed that Faulkner smelled strongly of alcohol, had slurred speech and a flushed face, attempted to conceal that he had been driving, and had open alcohol containers in the vehicle.

PROCEDURAL HISTORY

After police stopped and arrested Faulkner, he moved to suppress the evidence, challenging the legality of the vehicle stop and his DUI arrest. The trial court denied the motion to suppress and found him guilty in a bench trial. The Court of Appeals of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- *Lamb v. State*, 269 Ga. App. 335, 604 S.E.2d 207 (2004)

- Thomason v. State, 268 Ga. 298, 301(2)(a), 486 S.E.2d 861 (1997)
- McNair v. State, 267 Ga. App. 872, 874(1), 600 S.E.2d 830 (2004)
- Shorter v. State, 239 Ga. App. 625, 626(1), 521 S.E.2d 684 (1999)
- Vansant v. State, 264 Ga. 319, 443 S.E.2d 474 (1994)
- Francis v. State, 275 Ga. App. 164, 165(1), 620 S.E.2d 431 (2005)
- State v. Harden, 267 Ga. App. 381, 383, 599 S.E.2d 329 (2004)
- United States v. Chanthasouxat, 342 F.3d 1271, 1280(IV)(A)(iii)(b) (11th Cir. 2003)
- State v. Stilley, 261 Ga. App. 868, 871, 584 S.E.2d 9 (2003)
- Strickland v. State, 265 Ga. App. 533, 539, 594 S.E.2d 711 (2004)
- Howard v. State, 233 Ga. App. 861, 861-862, 505 S.E.2d 270 (1998)
- Trotter v. State, 256 Ga. App. 330, 331-332(1), 568 S.E.2d 571 (2002)
- Shockley v. State, 256 Ga. App. 892, 893(1), 570 S.E.2d 67 (2002)

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