

DISTRICT OF COLUMBIA COURT OF APPEALS

In re K.P.

951 A.2d 793 (D.C. 2008) · No. 06-FS-590 · Decided July 3, 2008

SUMMARY

The District of Columbia Court of Appeals held that police lacked reasonable, articulable suspicion under *Terry v. Ohio* to stop a group of juveniles based on an armed-threat report because the record did not establish a sufficiently particularized connection between the group stopped and the reported perpetrators. The court held that the resulting show-up identification should have been suppressed and reversed the adjudication of delinquency, remanding for further proceedings.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Farrell, Associate Judge, Retired; Ruiz, Associate Judge; Kramer, Associate Judge
JURISDICTION	District of Columbia
DECIDED	July 3, 2008
DOCKET	06-FS-590
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	K.P. appealed an adjudication of delinquency after the trial court denied his motion to suppress the victim's show-up identification.
STANDARD OF REVIEW	The court reviewed whether the record established the reasonable, articulable suspicion required by <i>Terry</i> to justify the stop and seizure.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	K.P. v. District of Columbia

TOPICS

- fourth amendment
- search and seizure
- reasonable doubt
- suppression of evidence
- appellate procedure

PRACTICE AREAS

- criminal procedure
- constitutional law
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether police had reasonable, articulable suspicion under *Terry v. Ohio* to stop and frisk the group of juveniles, including K.P., based on the information conveyed by the complainant and the officer's conclusory assertion that the group matched an unknown description.
2. Whether the complainant's show-up identification was the product of the unlawful seizure and therefore should have been suppressed.
3. Whether admission of the show-up identification was harmless beyond a reasonable doubt in light of the complainant's purported in-court identification.

HOLDINGS

1. The police lacked reasonable, articulable suspicion to stop the group because the record contained no sufficiently particularized identifying information connecting that group, much less K.P. individually, to the reported threats.
2. The show-up identification should have been suppressed because it was the product of the unlawful seizure.
3. The admission of the show-up identification was not harmless beyond a reasonable doubt, so the adjudication of delinquency had to be reversed.

KEY QUOTATIONS

"Under Terry, supra, "[t]he Fourth Amendment permits a police officer to stop an individual for investigatory purposes so long as the officer possesses a reasonable suspicion supported by specific and articulable facts that the individual is involved in criminal activity." (796)

"The rule substantially controlling our decision here is that, "without more, conclusory testimony by police officers that a defendant matched an unknown description of the suspect is not a sufficient basis for a judge to determine that a stop was justified." (797)

"Without any other more specific identifying information, this left too much leeway for the police to stop any group of juveniles walking in that area of 12th Street" (798)

FACTUAL BACKGROUND

A complainant reported that one member of a group of six or seven juveniles had threatened her and her cat, saying he had a "hammer" and would shoot her. Police later stopped and frisked a group of approximately five or six juveniles more than four blocks away, based on a radio report and an officer's assertion that the group matched an unspecified description. The complainant identified K.P. in a show-up procedure, but the 911 recording and radio dispatch were not introduced into evidence, and the officer could not recall the description that supposedly connected the stopped group to the group at the complainant's home.

PROCEDURAL HISTORY

Police stopped and frisked a group of juveniles after a 911 report that a juvenile had threatened a complainant with a gun. The complainant identified K.P. in a show-up procedure, and K.P. was adjudicated delinquent in part on the basis of that identification. The District of Columbia Court of Appeals held that the record did not

establish reasonable, articulable suspicion for the stop, concluded that the identification was the product of an unlawful seizure, and reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The adjudication of delinquency was reversed and the case remanded. If the government seeks a retrial, it may rely on the in-court identification only if the trial court determines in advance of trial that the courtroom identification was not derived from the constitutionally flawed show-up identification.

CASES CITED

- Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)
- Milline v. United States, 856 A.2d 616, 619 (D.C. 2004)
- In re T.L.L., 729 A.2d 334, 340, 343 (D.C. 1999)
- In re A.S., 614 A.2d 534, 537 (D.C. 1992)
- Williamson v. United States, 607 A.2d 471, 476 (D.C. 1992)
- Sanders v. United States, 751 A.2d 952, 955 (D.C. 2000)
- Cauthen v. United States, 592 A.2d 1021, 1023, 1025 (D.C. 1991)
- Ellis v. United States, 941 A.2d 1042, 1047, 1049-1050 (D.C. 2008)
- Chapman v. California, 386 U.S. 18, 87 S. Ct. 824, 17 L. Ed. 2d 705 (1967)
- United States v. Crews, 445 U.S. 463, 473, 100 S. Ct. 1244, 63 L. Ed. 2d 537 (1980)
- McFerguson v. United States, 770 A.2d 66, 72-73 (D.C. 2001)

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