

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

United States v. Rodriguez-Morales

929 F.2d 780 (1st Cir. 1991) · No. No. 90-1955 · Decided March 27, 1991

SUMMARY

The First Circuit reversed a district court order suppressing cocaine discovered in the defendant's vehicle. The court held that police reasonably impounded the vehicle under their community caretaking function after determining that neither occupant was properly licensed to drive, and that a canine sniff of the lawfully impounded vehicle was not a search under the Fourth Amendment. The positive canine indication supplied probable cause for a warrant to search the vehicle.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Selya, Circuit Judge; Breyer, Chief Judge; Bownes, Senior Circuit Judge
JURISDICTION	Federal
DECIDED	March 27, 1991
DOCKET	No. 90-1955
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The United States appealed under 18 U.S.C. § 3731 from a pretrial order of the United States District Court for the District of Rhode Island suppressing cocaine evidence obtained from Rodriguez-Morales's vehicle.
STANDARD OF REVIEW	The court reviewed factual findings, including mixed fact-law findings, for clear error, but reviewed de novo the district court's application of an incorrect legal standard.
PRECEDENTIAL VALUE	Published precedential opinion of the United States Court of Appeals for the First Circuit.
PARTIES	United States of America v. Osvaldo Rodriguez-Morales

TOPICS

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

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the initial traffic stop was supported by reasonable suspicion.
2. Whether officers could impound and move the vehicle to the police barracks under their community caretaking function without probable cause to arrest Rodriguez-Morales or search the vehicle.
3. Whether a canine sniff of the exterior of a lawfully impounded vehicle is a search under the Fourth Amendment and requires reasonable suspicion.
4. Whether the dog's alert supplied probable cause for a warrant to search the vehicle.

HOLDINGS

1. The initial stop was constitutionally valid because the officers had reasonable grounds to suspect that an altercation or reckless driving endangered the public.
2. When a vehicle is lawfully stopped on a highway and no occupant is properly licensed to drive it, police may reasonably impound and remove the vehicle under their community caretaking responsibilities without probable cause to arrest the driver or search the vehicle.
3. A canine sniff of the exterior of a vehicle lawfully in police custody is not a search under the Fourth Amendment and may be conducted without reasonable suspicion.
4. The positive canine alert supplied probable cause for the officers to obtain a warrant to search the vehicle, and the warrant search was lawful.

KEY QUOTATIONS

"We hold that the canine sniff of the exterior of a vehicle which is legitimately within the custody of the police is not a search within the meaning of the fourth amendment; and that subjecting the exterior of such a motor vehicle to the olfactory genius of a drug detection dog does not infringe upon the vehicle owner's fourth amendment rights." (¶ 31)

FACTUAL BACKGROUND

Rhode Island State Police stopped a Toyota after observing a passenger leaning from the window and apparently engaging in an altercation with another vehicle. Neither Rodriguez-Morales nor his passenger was properly licensed to drive, and the officers found inconsistencies in their identification and travel explanations. The officers transported the men and Toyota to the state police barracks, where Rodriguez-Morales refused consent to search; a trained drug dog alerted to the vehicle, officers obtained a warrant, and a search revealed approximately two kilograms of cocaine.

PROCEDURAL HISTORY

Rhode Island State Police stopped Rodriguez-Morales's vehicle, impounded it after determining that neither occupant was properly licensed to drive, conducted a canine sniff, obtained a search warrant after the dog

alerted, and discovered approximately two kilograms of cocaine. After Rodriguez-Morales was indicted for possession of cocaine with intent to distribute, the district court found the initial stop valid but concluded that the subsequent detention and vehicle impoundment constituted an arrest and seizure without probable cause. The district court suppressed the evidence, and the First Circuit reversed and remanded with directions to vacate the suppression order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the suppression order and remand with directions to vacate it.

CASES CITED

- Illinois v. Rodriguez, 497 U.S. 177, 110 S. Ct. 2793, 111 L. Ed. 2d 148 (1990)
- United States v. Stanley, 915 F.2d 54, 57 (1st Cir. 1990)
- United States v. Figueroa, 818 F.2d 1020, 1024 (1st Cir. 1987)
- United States v. LaFrance, 879 F.2d 1, 4, 6 (1st Cir. 1989)
- Berkemer v. McCarty, 468 U.S. 420, 439 (1984)
- Terry v. Ohio, 392 U.S. 1 (1968)
- Anderson v. City of Bessemer City, 470 U.S. 564, 573-74 (1985)
- United States v. Aymelek, 926 F.2d 64, 68 (1st Cir. 1991)
- United States v. Lott, 870 F.2d 778, 781, 784 (1st Cir. 1989)
- Cady v. Dombrowski, 413 U.S. 433, 441, 447-48 (1973)
- South Dakota v. Opperman, 428 U.S. 364, 368, 370 n.5, 374-75 (1976)
- Colorado v. Bertine, 479 U.S. 367, 371, 373-76 (1987)
- United States v. Velarde, 903 F.2d 1163, 1166-67 (7th Cir. 1990)
- United States v. Kornegay, 885 F.2d 713, 716 (10th Cir. 1989)
- United States v. Brown, 787 F.2d 929, 932 (4th Cir. 1986)
- United States v. Duncan, 763 F.2d 220, 224 (6th Cir. 1985)
- United States v. Johnson, 734 F.2d 503, 505 (10th Cir. 1984)
- United States v. Griffin, 729 F.2d 475, 480 (7th Cir. 1984)
- United States v. Staller, 616 F.2d 1284, 1289-90 (5th Cir. 1980)
- United States v. 1988 B.M.W. 750IL, 716 F. Supp. 171, 173-74 (E.D. Pa. 1989), *aff'd* without opinion, 891 F.2d 281 (3d Cir. 1989)
- Delaware v. Prouse, 440 U.S. 648, 654 (1979)
- Lopez Lopez v. Aran, 844 F.2d 898, 905 (1st Cir. 1988)
- United States v. Dall, 608 F.2d 910, 913 (1st Cir. 1979)

- United States v. Frank, 864 F.2d 992, 1001 (3d Cir. 1988)
- United States v. Orozco, 715 F.2d 158, 161 (5th Cir. 1983) (per curiam)
- United States v. Belt, 854 F.2d 1054, 1055-56 (7th Cir. 1988)
- United States v. Hadfield, 918 F.2d 987, 993 (1st Cir. 1990)
- United States ex rel. LaBelle v. LaVallee, 517 F.2d 750, 755 (2d Cir. 1975)
- New York v. Harris, 495 U.S. 14, 110 S. Ct. 1640, 109 L. Ed. 2d 13 (1990)
- United States v. Place, 462 U.S. 696, 706-07 (1983)
- United States v. Jacobsen, 466 U.S. 109, 123-24 (1984)
- California v. Carney, 471 U.S. 386, 390-93 (1985)
- United States v. Panitz, 907 F.2d 1267, 1271 (1st Cir. 1990)
- United States v. Morales-Zamora, 914 F.2d 200, 203 (10th Cir. 1990)
- United States v. DiCesare, 765 F.2d 890, 897 (9th Cir. 1985), amended, 777 F.2d 543 (9th Cir. 1985)
- United States v. Vasquez, 909 F.2d 235, 238 (7th Cir. 1990)
- United States v. Colyer, 878 F.2d 469, 473-77 (D.C. Cir. 1989)
- United States v. Race, 529 F.2d 12, 14 n.2 (1st Cir. 1976)
- United States v. Quinn, 815 F.2d 153, 159 (1st Cir. 1987)