

THE LOCAL GOVERNMENT LIABILITY BEAT



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Traffic Stops and Legally Prolonging the Detention

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On August 23, 2019, the Court of Appeals of Georgia decided *Hall v. State*,¹ which serves as an excellent review of the law pertaining to the prolonging of a traffic stop to investigate additional criminal activity. The relevant facts of *Hall*, taken from the case, are as follows:

[T]he evidence shows that in May 2015, an agent with the Atlanta High Intensity Drug Trafficking Area (“HIDTA”) Task Force was conducting surveillance on Elmer Moreno, a member of a drug trafficking organization, from which the agent recently seized over 200 pounds of methamphetamine. As a result of this surveillance, the agent learned that Moreno was frequently distributing methamphetamine from the parking lot of a Home Depot on Jimmy Carter Boulevard in Gwinnett County. Then, on May 8, 2015, the agent followed Moreno to the Home Depot and observed him having a conversation with a man standing next to a gray car with a temporary Tennessee license plate. After a few minutes, one of the other agents participating in the surveillance saw Moreno hand the man a bulky, white plastic bag, which the agents suspected contained illegal narcotics. Moreno and the other man then departed in their respective vehicles, and the agent began following the latter, intending to enlist the assistance of an officer in a marked patrol vehicle to conduct a traffic stop. But no patrol officers were in the area at that time, and after following the gray car south on Interstate 85 and then north on Interstate 75, the agent lost the vehicle in heavy traffic. Nevertheless, after running the vehicle’s license tag number, the agent determined that the vehicle was registered to Randall Hall.

Not long thereafter, the HIDTA agent set up a remotely operated surveillance camera in the parking lot of that same Home Depot, which allowed him to monitor Moreno’s meetings from a laptop computer. And on May 26, 2018, the agent observed Moreno’s pickup



truck pass him, apparently on the way to the Home Depot. Immediately, the agent contacted one of his partners, whom he asked to monitor the surveillance camera while he turned around to head back that way. Within a few minutes, the agent parked in a nearby lot and took over the surveillance. Upon doing so, he observed Moreno's vehicle pull up next to a gold Toyota pickup truck in the Home Depot parking lot. The driver of the gold pickup exited his vehicle, at which point the agent recognized him as Hall, the same man Moreno met with a few weeks earlier. Hall handed Moreno a yellow bag, and the two men then walked to the back of Moreno's pickup, where Moreno retrieved a bulky, white plastic bag from a toolbox and passed it to Hall, who then placed it in his own truck. The two men then spoke briefly before departing in their respective vehicles.

Believing Moreno and Hall had conducted yet another drug transaction and that Hall would pass by where the agent was currently parked on his way to Interstate 85, the agent waited for Hall's truck. A few minutes later, the agent saw Hall's truck and followed it to a Chick-fil-A parking lot, where it entered the drive-thru. And as the agent pulled into the restaurant's parking lot, he noticed two Georgia State Patrol vehicles parked there. The agent then parked his vehicle, went into the restaurant, and identified himself to the two state troopers. He explained to the troopers his belief that a driver currently waiting in the drive-thru was in possession of a significant amount of narcotics, identified Hall's pickup truck to the troopers, and asked if they would follow Hall and, if possible, conduct a traffic stop. The troopers agreed, and exited the restaurant just as Hall was leaving the drive-thru.

As Hall's vehicle pulled out of the parking lot, the troopers followed, and, shortly thereafter, they observed Hall's vehicle cross over the white line and change lanes without signaling. Consequently, one of the troopers activated his vehicle's blue lights to initiate a traffic stop. Hall—who was in the middle lane at the time—pulled over to the far left side of the road and stopped next to some road-side construction, leaving little room between his driver's side door and a ditch related to the construction. The trooper asked Hall to come back toward his vehicle, where there was more room to stand. Hall complied, produced a Tennessee license, and the trooper explained why he had stopped him. Based on Hall's nervousness and the fact that he kept reaching into his pockets, the trooper asked Hall if he could pat him down for weapons. Hall consented, resulting in the trooper discovering that he was carrying over \$1,000. The trooper then asked Hall what he was doing in the area, and Hall responded that he had just come from his girlfriend's apartment, which he claimed was behind the Home Depot. Finally, the

trooper asked Hall if he could search his truck, but Hall refused to consent.

Subsequently, the trooper returned to his vehicle and began running Hall's license and registration through the Georgia Crime Information Center database. And while doing so, the trooper contacted dispatch to request assistance from a K-9 officer. A few minutes later, after he could not determine via GCIC if Hall's vehicle was insured, the trooper exited his vehicle and asked Hall if he had paper copies of his vehicle's registration and insurance. Hall responded that he would retrieve them from his glove box, and as the trooper followed Hall to the passenger side door of his truck, the trooper smelled the odor of burnt marijuana emanating from the vehicle. After Hall located the documents, the trooper took them and walked back toward his vehicle to enter the information. At that point, a little over 15 minutes after the trooper initiated the traffic stop, the K-9 officer and his dog arrived on the scene.

Upon approaching Hall's truck, the K-9 officer also noticed the odor of marijuana. The trooper informed Hall that the K-9 officer was going to have his dog conduct an open-air sniff. And shortly thereafter, the K-9 officer's dog alerted to the presence of narcotics and did so a second time as he circled the vehicle. Then, after conferring with the K-9 officer, the trooper informed Hall that he was going to search his truck, and, during the course of that search, the trooper recovered a large white plastic bag, containing an off-white crystal substance, which was later identified as methamphetamine. Additionally, the trooper discovered a pill bottle, containing a small amount of marijuana.

Thereafter, the State charged Hall, via indictment, with one count of trafficking in methamphetamine and one count of possession of less than an ounce of marijuana.ⁱⁱ

Hall filed a motion to suppress the drugs found in his vehicle and argued that the search of this vehicle and seizure of drugs was the product of a prolonged detention that violated the Fourth Amendment. The trial court denied the motion. The case went to a bench trial, and Hall was convicted. He later appealed the denial of his motion to suppress to the Court of Appeals of Georgia.

On appeal, Hall argued that the drugs should be suppressed because the troopers violated his rights under the Fourth Amendment by prolonging the traffic stop to wait for a K9 unit to arrive and conduct a free-air sniff around his vehicle. Thus, the issue on appeal was whether the trooper violated the Fourth Amendment when he detained Hall, thus prolonging the traffic stop, to await a K9 unit to arrive and conduct a sniff of the vehicle.

The court of appeals first noted that Hall correctly conceded that the initial traffic stop was lawful under the Fourth

Amendment because the trooper observed a traffic violation. The court stated

[W]hen an officer observes a traffic offense, the resulting traffic stop does not violate the Fourth Amendment of the United States Constitution “even if the officer has ulterior motives in initiating the stop, and even if a reasonable officer would not have made the stop under the same circumstances.”ⁱⁱⁱ

Next, the court examined the legal principles relevant to deciding whether the trooper violated the Fourth Amendment by prolonging the traffic stop. The court stated

[A]s the Supreme Court of the United States has explained,

a seizure that is lawful at its inception can violate the Fourth Amendment if its manner of execution unreasonably infringes interests protected by the Constitution. A seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission.

Consequently, the tolerable duration of police inquiries in the traffic-stop context is “determined by the seizure’s ‘mission’—to address the traffic violation that warranted the stop, and attend to related safety concerns.” Furthermore, after the tasks related to the investigation of the traffic violation and processing of the citation have been accomplished, an officer “cannot continue to detain an individual without reasonable articulable suspicion.” And importantly, “reasonable articulable suspicion” requires a “particularized and objective basis for suspecting that a citizen is involved in criminal activity.”^{iv}

In other words, during a traffic stop, an officer may pursue the purpose of the stop, address safety concerns and conduct checks of the driver’s license status, warrants, vehicle registration and insurance status. If an officer prolongs a traffic stop by addressing matters unrelated to the reasons above, the officer violates the Fourth Amendment unless the officer has reasonable suspicion of other criminal activity that would justify the prolonged detention.

The court then discussed two legal justifications that allowed the troopers to prolong the traffic stop. First, the court stated that the information provided to the troopers from the HIDTA agent provided the troopers sufficient reasonable suspicion of criminal activity to justify prolonging the detention to await a K9 unit. The court noted that the agent identified himself to the troopers, pointed out Hall’s truck, and told them minutes earlier he observed Hall engage in a

suspected drug transaction. Based on this information, the court stated

[T]his “collective knowledge” provided the trooper with reasonable, articulable suspicion, which, in turn, justified prolonging the traffic stop until the arrival of the K-9 officer and his dog.^v

The second justification for prolonging the stop to await the K9 unit occurred while the troopers were acting within the proper scope of the traffic stop. Specifically, one of troopers was unable to verify via the state computer system, that Hall’s vehicle was properly insured. The trooper exited his vehicle and asked Hall if he had paper registration and proof of insurance in his truck. Hall said that he did, and the trooper accompanied him to the passenger side of his truck so he could retrieve the information. At this time, while Hall was getting the registration and insurance information, the trooper smelled the odor of burnt marijuana emanating from the truck. The court of appeals stated that this observation provided the trooper sufficient reasonable suspicion to believe Hall was involved in criminal activity such that it was reasonable to prolong the stop to await the K9 unit. This was approximately fifteen minutes into the traffic stop, and the K9 unit arrived immediately thereafter.

Lastly, the court of appeals noted that once the K9 alerted on the vehicle, the troopers had probable cause to search the vehicle.

Therefore, the court of appeals affirmed the denial of the motion to suppress.

Citations

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| i. A19A1444 (Ga. App. Decided August 23, 2019) | iv. Id. (internal citations omitted) (emphasis added) |
| ii. Id. | v. Id. |
| iii. Id. (emphasis added) | |

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This Issue...

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