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Cartnail v. State:

A Police Officer Was Not Justified, Under Reasonable Suspicion Standard, in Conducting an Investigative Traffic Seizure of Defendant Who Had Not Committed a Motor Violation

By Sona Morrison

In this case, implicating the Fourth Amendment of the U.S. Constitution, the Court of Appeals of Maryland held that under the reasonable suspicion standard, police officers are not justified in conducting investigative traffic stops, absent specific facts and rational inferences based on those facts indicating criminal activity. *Cartnail v. State*, 359 Md. 272, 753 A.2d 519 (2000). The court further held that a set of wholly innocent circumstances cannot add up to an articulable suspicion unless they establish an objective inference that would lead a reasonable and prudent officer to make the stop.

On August 26, 1997, at approximately 1:49 a.m., the City of Frederick police investigated a reported robbery at the Quality Inn hotel near the interchange of Interstate highways 70 and 270, and routes 15 and 340 in Frederick. Police received information that three black males driving a gold or tan Mazda had fled the scene in an unknown direction. Based on this information, at 3:05 a.m., and approximately two miles northeast of the Quality Inn, the patrol officer pulled over a gold Nissan containing two black men, Rondorian Wayne Cartnail (“Cartnail”), the defendant, and

another black male. The officer requested Cartnail’s driver’s license and registration, and Cartnail voluntarily admitted he was driving on a revoked license. The officer confirmed the revocation through a computer check, and Cartnail was subsequently arrested and charged based on the information obtained pursuant to the traffic stop.

At a motion to suppress hearing, Cartnail moved to suppress any statements or information obtained after the stop, because he had not committed a traffic violation, and the officer did not have reasonable articulable suspicion of any criminal activity. The State argued that the robbery information supplied the articulable suspicion. The motion was denied, and the trial court subsequently found Cartnail guilty of driving with a revoked license. The court of special appeals affirmed based on the similarity of Cartnail’s vehicle and the one reported in the robbery, the fact that there were multiple occupants in the vehicle, and the fact that the stop occurred in the early morning hours when there are few vehicles on the street and in the same metropolitan area of the robbery. The court of appeals granted certiorari to determine whether the police stop was

lawful.

The court of appeals began its analysis by addressing the Fourth Amendment protections against unreasonable searches applicable to the states through the Fourteenth Amendment. *Cartnail v. State*, 359 Md. 272, 279, 753 A.2d 519, 523 (2000) (citing *Mapp v. Ohio*, 367 U.S. 643, 655 (1961)). The detention of a motorist pursuant to a police traffic stop is a seizure under the Fourth Amendment, and is evaluated for reasonableness under a dual inquiry: “whether the stop was justified at its inception, and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.” *Id.* (quoting *United States v. Sharpe*, 470 U.S. 675, 682 (1985)(citing *Terry v. Ohio*, 392 U.S. 1, 9 (1968)). The court of appeals was concerned with the first prong and questioned whether the officer had reasonable articulable suspicion to warrant the intrusion. *Id.* (citing *Ferris v. State*, 355 Md. 356, 384, 735 A.2d 491, 501 (1999)). The court stated that “reasonable suspicion ... is dependent upon ... the content of information possessed by police and its degree of reliability.” *Id.* at 285-87, 753 A.2d at 526-527 (quoting *Alabama v. White*, 496 U.S. 325, 330 (1990)). Under a

“totality of the circumstances” standard, both quantity and quality of the information must be evaluated. *Id.* at 287, 753 A.2d at 526-527 (citing *Alabama v. White*, 496 U.S. 325, 330 (1990)).

The court next considered factors in evaluating the totality of circumstances. *Id.* at 289, 753 A.2d 528. The court found that the universe of facts will be determined primarily by the amount and uniqueness of description, the size of the area within which the offender might be found, the length of time since the offense, and the number of people about at the time in that area. *Id.* (citing 4 WAYNE LAFAVE, SEARCH AND SEIZURE § 9.4(g) at 195, 198, n. 297 (3d ed. 1996 & 2000 Supp.)). The court found that the details of the robbery suspects used by the officer to make the stop did not reasonably and articulably match Cartnail’s circumstances. *Id.* at 294, 753 A.2d at 531.

Finally, the court addressed the lack of corroboration between the description of the robbery suspects and the circumstances surrounding Cartnail at the time of the stop. *Id.* at 290, 753 A.2d at 529. The court noted the lack of two of the reasonable suspicion factors. *Id.* There was no traffic violation, and Cartnail was not exhibiting behavior out of the ordinary except to be on the road in the early morning hours when there are few others on the road. *Id.* This was analyzed to be “innocent travel” and not suspicious activity that would justify the stop. *Id.* The second factor lacking was the absence of

any knowledge that Cartnail had been involved in other unrelated criminal activity of a similar nature. *Id.*

Stating that a driver is entitled to privacy at any time of the day, the court found that the only factors present that matched Cartnail’s “circumstances were gender, race and arguably the color of the car.” *Id.* at 293, 296, 753 A.2d at 531-32. The court rejected the State’s claim that the makes of the vehicles involved in the crime, Mazda, and Cartnail’s Nissan, sufficiently narrowed “the group of innocent travelers.” *Id.* at 294, 753 A.2d at 531. In addition, the court stressed the importance of considering the elapsed time and distance from the stop to the crime. *Id.* at 295, 753 A.2d at 532. The court reasoned that considering the total picture, including the number of major highways in the vicinity of the crime, the “range of possible flight” open to the suspects in the “hour and fifteen minutes following the robbery [was] relatively enormous” including as far as Baltimore or Washington, D.C. *Id.* The court determined that a reasonable police officer in either of those cities could not have pulled over Cartnail “under such a flimsy guise of ‘reasonable suspicion.’” *Id.*

The court also considered the time of day as an important consideration because it decreases the number of innocent people on the road and can aid the police in spotting criminal suspects. *Id.* at 296, 753 A.2d 532. However, early morning hours also provide police

more opportunity to observe a suspected motorist before initiating a Terry stop and that should have been done in this case. *Id.*

Thus, the court concluded that the details and description of the robbery suspects “did not reasonably and articulably match [Cartnail’s] circumstances” and was an unconstitutional seizure. *Id.* at 297, 753 A.2d at 532. The court found that the “combination of wholly innocent factors” did not combine into a “suspicious” totality of circumstances to support the stop and reversed the court of special appeals, remanding to the Circuit Court for Frederick County. *Id.* at 294, 753 A.2d at 531 (citing *United States v. Wood*, 106 F.3d 942, 948 (10th Cir. 1997)).

The court of appeals’ ruling gives “teeth to the notion ... [that] police do not [have] carte blanche to pick and choose whom to stop based on some ‘hunch.’” *Id.* at 297, 753 A.2d at 532. In determining that a combination of “wholly innocent factors” is no more suspicious than the individual components, the court is providing law enforcement officials with a clear directive that articulably suspicious behavior must be present in order to make an investigative stop. *Id.* This decision speaks loudly that Maryland is aggressively preserving the Constitutional rights of its citizens, specifically the Fourth Amendment right against unlawful search and seizures, and will not permit random stops based on little more than an over enthusiastic inclination.