

April 22, 2014

Council Members

Denise Fachini
Chair
District Attorney
Cordele Judicial Circuit

Stephanie Woodard
Vice Chair
Solicitor-General
Hall County

Danny Porter
Secretary
District Attorney
Gwinnett Judicial Circuit

Sherry Boston
Solicitor-General
DeKalb County

Fredric D. Bright
District Attorney
Ocmulgee Judicial Circuit

J. David Miller
District Attorney
Southern Judicial Circuit

Tasha Mosley
Solicitor-General
Clayton County

Leigh Patterson
District Attorney
Rome Judicial Circuit

Brian Rickman
District Attorney
Mountain Judicial Circuit

Prado Navarette v. California***Anonymous 911 Call Alleging A Truck Drove Caller's Vehicle Off The Road Provided Reasonable And Articulable Suspicion That The Driver of the Truck Was Intoxicated And Justified Investigatory Stop Of The Truck***

In *Prado Navarette v. California*, No. 12-9490 (April 22, 2014), the petitioners were convicted of transporting marijuana. The evidence showed that an anonymous call to 911 stated that a silver Ford F-150 with license plate no. 8D94925 ran her off the road while travelling south on Highway 1 at mile marker 88. Within a few minutes of hearing the 911 center dispatch, an officer observed the truck travelling in the same direction but, by then, at mile marker 69. After following the truck for 5 minutes, but observing no evidence of any traffic offenses, the officer pulled the truck over. The marijuana was located in the vehicle's truck bed.

The Court, in a 5-4 decision, noted that under appropriate circumstances, an anonymous tip can demonstrate sufficient indicia of reliability to provide reasonable suspicion to make an investigatory stop. Thus, the Court stated, the initial question was whether the 911 call was sufficiently reliable to credit the allegation that petitioners' truck ran the caller off the highway. The Court found that under the circumstances, it did. First, by reporting that she had been run off the road by a specific vehicle, the caller necessarily claimed eyewitness knowledge of dangerous driving which lent significant support to the tip's reliability. Second, citing evidentiary rules regarding excited utterances and present sense perception, the Court found that the timeline of the events suggested that the caller was telling the truth. A third indicator of veracity was the caller's use of the 911 emergency system. Although the Court cautioned that tips given in 911 calls are not per se reliable, the fact that 911 emergency systems have features allowing for identifying and tracing callers provides additional safeguards against making false reports with immunity.

Having determined that the 911 call had sufficient indicia of reliability, the Court then addressed whether the report of being run off the road created reasonable suspicion of an ongoing crime, such as drunk driving, as opposed to an isolated episode of past recklessness. The Court concluded that the behavior alleged by the 911 caller, viewed from the standpoint of an objectively reasonable police officer, amounted to reasonable suspicion of drunk driving. First, the Court noted that the "accumulated experience of thousands of officers" suggests that the dangerous driving described in the call strongly correlates with drunk driving. "The conduct bears too great a resemblance to paradigmatic manifestations of drunk driving to be dismissed as an isolated example of recklessness." Second, the absence of additional suspicious conduct, after the truck was first spotted by the officer, did not dispel the reasonable suspicion of drunk driving. While extended observation of an allegedly intoxicated driver might eventually dispel such suspicion, "the 5-minute period in this case hardly sufficed in that regard." Moreover, the Court stated, once reasonable suspicion arises, the reasonableness of the officer's decision to stop a suspect does not



State Prosecution Support Division

April 22, 2014

Council Members

Denise Fachini
Chair
District Attorney
Cordele Judicial Circuit

Stephanie Woodard
Vice Chair
Solicitor-General
Hall County

Danny Porter
Secretary
District Attorney
Gwinnett Judicial Circuit

Sherry Boston
Solicitor-General
DeKalb County

Fredric D. Bright
District Attorney
Ocmulgee Judicial Circuit

J. David Miller
District Attorney
Southern Judicial Circuit

Tasha Mosley
Solicitor-General
Clayton County

Leigh Patterson
District Attorney
Rome Judicial Circuit

Brian Rickman
District Attorney
Mountain Judicial Circuit

turn on the availability of less intrusive investigatory techniques. Indeed, the Court found, “[t]his would be a particularly inappropriate context to depart from that settled rule, because allowing a drunk driver a second chance for dangerous conduct could have disastrous consequences.” In so holding, the Court also rejected the petitioners’ attempts to second-guess the officer’s reasonable suspicion of drunk driving. Thus, the Court stated, while it may be true that the caller’s reported behavior could be explained by a driver responding to an unruly child or some other distraction, reasonable suspicion need not rule out the possibility of innocent conduct. While more than a “hunch,” reasonable suspicion is “considerably less than proof of wrongdoing by a preponderance of the evidence” and “obviously less” than is necessary for probable cause.

Accordingly, the Court concluded, while this was a “close case,” under the totality of the circumstances, the indicia of reliability here was sufficient to provide the officer with reasonable suspicion that the driver of the truck had run another vehicle off the road. This information made it reasonable for the officer to execute the traffic stop of petitioners’ truck.