

October 21, 2013

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Brown v. State; Williams v. State***Georgia Supreme Court Clarifies the Constitutional Analysis of Police Roadblocks, Both Individually and at the Programmatic Level***

In *Brown v. State*, S12G1287 (October 21, 2013) and *Williams v. State*, S13G0178 (October 21, 2013), the Supreme Court of Georgia overturned two convictions of defendants stopped at separate unconstitutional police roadblocks. According to the Court, the long-standing analytical framework used by Georgia courts to determine the constitutional validity of roadblocks (first framed by the Court of Appeals in *Baker v. State*, 252 Ga.App. 695 (2001)) improperly merged two distinct constitutional requirements relating to the authorization of roadblocks by supervisory personnel pursuant to a roadblock program established for “an appropriate primary purpose other than general crime control[.]” *Brown*, slip op. at 25.

In *Brown*, the Court traced the history of the roadblock exception to the Fourth Amendment’s requirement that traffic stops be justified by individualized suspicion. Writing for a unanimous court, Justice Nahmias noted that the Supreme Court of the United States recognized a narrow exception to that general requirement which authorized roadblocks implemented pursuant to a “plan embodying explicit, neutral limitations on the conduct of individual officers.” *Brown v. Texas*, 443 U.S. 47, 51 (99 S.Ct. 2637, 61 LE2d 357) (1979). Such limitations strike a constitutionally acceptable balance between the public interests served by checkpoints and the right of individuals to be free from arbitrary and oppressive government interference. *Id.* at 50. Responding to the U.S. Supreme Court’s concerns, the Georgia Supreme Court, in *LaFontaine v. State*, 269 Ga. 251, 253 (1998), articulated five minimum requirements that a *particular checkpoint* must satisfy in order to be found constitutional, rather than arbitrary or oppressive. Those requirements are that (1) the decision to implement the roadblock be made by supervisory personnel rather than by officers in the field; (2) all vehicles be stopped, rather than random vehicle stops; (3) the delay to motorists be minimal; (4) the roadblock be well identified as a police checkpoint; and (5) screening officers possess sufficient training and experience to qualify him or her to make an initial determination as to which motorists should be subjected to field sobriety testing. *Id.* at 253.

Two years after *LaFontaine*, the U.S. Supreme Court revisited the constitutional validity of roadblocks in *City of Indianapolis v. Edmond*, 531 U.S. 32 (121 S.Ct. 447, 148 LE2d 333) (2000). There, the Court held that in order to comply with the Fourth Amendment, a *checkpoint program* must have (in addition to the sort of safeguards on the implementation and operation of checkpoints embodied in *LaFontaine*) a primary purpose other than a general interest in crime control. *Edmond* at 40, 48. Following the *Edmond* decision, the Georgia Court of Appeals considered what impact that decision had upon Georgia’s *LaFontaine* requirements. See *Baker v. State*, 252 Ga.App. 695, 697-709 (2001) (whole-court decision). Unfortunately, instead of recognizing that *Edmond* added to the *LaFontaine* analysis, the Court of Appeals erroneously held that *Edmond* simply *modified* the first *LaFontaine* factor, such that the State was required to

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prove both “that the decision to implement the checkpoint in question was made by supervisory officers in the field *and* that the supervisors had a legitimate primary purpose.” *Baker* at 702 (emphasis in original).

Put another way, the *Baker* court merged the *Edmond* requirement that a roadblock program have a primary purpose other than general crime into the first *LaFontaine* factor that the roadblock be implemented by a supervisor and not a field officer. Properly understood, the two criteria “involve different factual inquiries, and they serve different objectives in the Fourth Amendment scheme.” *Brown*, slip op. at 19. The focus of the *Edmond* “primary purpose” requirement is on *why a law enforcement agency uses checkpoints*; in contrast, the *LaFontaine* factors focus on *when, where, how, and by whom specific checkpoints are implemented and operated*. Therefore, the Court disapproved of *Baker* and its progeny to the extent that they merged these two separate inquiries.

Having corrected the constitutional analysis applicable to roadblocks generally, the Court applied it to the facts of both *Brown* and *Williams*. In *Brown*, the defense challenged the roadblock based upon two alleged shortcomings in the evidence offered by the State regarding the sergeant that authorized it. First, the defense argued that the sergeant did not qualify as a “supervisor” within the meaning of *LaFontaine* because the State failed to prove that he was an “executive” or “programmatically level” supervisor. Second, the defendant asserted that the sergeant had authorized the roadblock while in the field rather than in advance, while acting in his supervisory capacity. At the motion hearing, the defense presented some evidence supporting the theory that the sergeant had authorized the roadblock from the field, and based on that evidence, the trial court granted the motion to suppress.

According to the Supreme Court, the facts in *Brown* did not present a problem in regard to the *Edmond* “primary purpose” requirement because the police department policy governing roadblock implementation (which was introduced by the State and which provided that roadblocks were to be used “to monitor and check driver’s licenses, driver condition, vehicle registrations, vehicle equipment, and various other requirements of the Georgia State Motor Vehicle and Traffic Code”) sufficiently demonstrated that the purpose of the roadblock program was not general crime detection. In addition, the Court rejected the argument that the sergeant who authorized the roadblock in his case failed to qualify as “supervisory personnel” within the meaning of *LaFontaine* because he was not an “executive” or “programmatically level” supervisor. Instead, the Court held that a “supervising officer” under *LaFontaine* was simply one to whom the authority to implement roadblocks was delegated, and that the authorizing sergeant in *Brown* qualified. However, the Court found that because there was evidence in the record to support the trial court’s determination that the sergeant made the decision to implement the roadblock while in the field rather than in advance of the roadblock, that determination was not clearly erroneous. Therefore, the Court held that the Court of Appeals erred in reversing the trial court’s grant of the motion to suppress.

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In *Williams*, the defense challenged the constitutionality of the roadblock on the ground that the State failed to establish the first of the *LaFontaine* factors. Referencing *Brown*, the Court interpreted this as a challenge to whether the roadblock was established in advance by a supervising officer and to whether the law enforcement agency's roadblock program had a primary purpose other than general crime detection. After analyzing the facts adduced by the State at the motions hearing, the Court concluded that the record supported the trial court's determination that the officer who authorized the roadblock was a supervisor, and that he decided to implement the roadblock in advance and while acting in his supervisory capacity. In that regard, the Court noted that the assistance the authorizing officer provided while at the scene of the roadblock did not deprive him of supervisory status for purposes of the first *LaFontaine* requirement. However, the Court held that the State failed to prove that the roadblock program in this case was properly limited as required by *Edmonds*. Specifically, the Court noted that the short written law enforcement policy governing the agency's utilization of roadblocks did not contain sufficient limitations preventing roadblock usage for general crime detection purposes. The Court stated that while nothing in the Constitution requires law enforcement agencies to have written policies governing the use of roadblocks, the existence of such policies and the use of written forms documenting the implementation of roadblocks make it easier to establish the purposes of a roadblock program. Here, the Court found, the record contained no testimony or other evidence beyond the written policy regarding the law enforcement agency's purposes for roadblock implementation. Furthermore, the trial court's finding that the supervisor in this case had been given the authority to implement roadblocks for legitimate law enforcement purposes did not establish that the agency's checkpoint program *as a whole* had a primary purpose other than general criminal deterrence. Therefore, because the State failed to make an adequate showing in regard to *Edmond*, the Court of Appeals erred in upholding the trial court's denial of the motion to suppress.

The decisions in *Brown* and *Williams* clarify the factors our courts must use to determine the constitutionality of a police roadblock under the Fourth Amendment. In summary, the State must show the following:

1. The roadblock was implemented pursuant to a checkpoint program that has, when viewed at the programmatic level, an appropriate primary purpose other than general crime control;
2. The decision to implement the specific roadblock in question was made by a supervisor in advance, and not by an officer in the field;
3. All vehicles that passed through the roadblock were stopped, rather than random vehicle stops;
4. The delay to motorists was minimal;
5. The roadblock was well-identified as a police checkpoint;
6. The screening officers staffing the roadblock possessed sufficient training and experience to qualify them to make an initial determination as to which motorists should be subjected to field sobriety testing; and
7. Under the totality of the circumstances, the stop of the defendant was reasonable under the Fourth Amendment.