



MAY 7, 2018

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FYI: McCoy v. STATE

The Georgia Supreme Court Holds that the Training and Experience of the Screening Officers at a Road Check Does Not Factor into the Analysis of Whether the Road Check Was Constitutionally Valid

In *McCoy v. State*, S17G1530 (5/7/18), appellant was convicted of driving under the influence of marijuana after a bench trial. Appellant argued that the trial court erred in denying her motion to suppress the evidence obtained from her traffic stop, as it was the result of an illegally constituted road check. The Court of Appeals affirmed the ruling in *McCoy v. State*, 341 Ga. App. 216 (2017), and the Supreme Court granted certiorari to consider whether the road check was reasonable under the Fourth Amendment and *LaFontaine v. State*, 269 Ga. 251 (1998), specifically regarding the factor that relates to the training and experience of the screening officer.

The Court noted that in *LaFontaine*, it identified five minimum requirements that a particular checkpoint must satisfy to be upheld as constitutional: 1) the decision to implement the roadblock was made by supervisory personnel rather than the officers in the field; 2) all vehicles are stopped as opposed to random vehicle stops; 3) the delay to motorists is minimal; 4) the roadblock operation is well identified as a police checkpoint; and 5) the "screening" officer's training and experience is sufficient to qualify him to make an initial determination as to which motorists should be given field tests for intoxication.

The Court found that the fifth factor is unlike the other requirements in that it relates to what occurs *after* the traffic stop – the encounter between the screening officer and the motorist that causes the motorist to be detained for the purpose of conducting a DUI investigation. Because it is unrelated to the constitutionality of the road check itself, the Court disapproved of this factor. Instead, courts considering road check stops should address, if the issue is raised, whether the screening officer had a reasonable articulable suspicion to detain the driver for further investigation. In this case, because the defendant did not challenge the screening officer's decision to refer her for further investigation, and because the nature of their training is no longer an issue in the constitutionality of the road check, the stop in question is affirmed.

State Prosecution Support Division



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Prosecutors reviewing motions related to road checks should determine whether the motion raises the issue of whether the screening officer had reasonable articulable suspicion to refer the defendant for field sobriety evaluations to determine whether the screening officer’s testimony is required at a motion hearing. It is important to understand, prior to a motion hearing, whether the defendant is challenging the constitutionality of the road check itself, the initial encounter between the defendant and the screening officer, the subsequent investigation (which may be performed by a different officer than the initial screener), or some combination of these.

Furthermore, although the Court may have disapproved of the fifth *LaFontaine* factor regarding the constitutionality of a road check, the other four factors remain valid. Additionally, prosecutors still must make a separate determination of whether the law enforcement agency's checkpoint program has an appropriate primary purpose other than the general interest in crime control, which requires review at the “programmatic level”. See *City of Indianapolis v. Edmond*, 531 U. S. 32, 48 (121 SCt 447, 148 LE2d 333) (2000); *Brown v. State*, 293 Ga. 787 (2013).