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FYI: UNITED STATES v. CAMPBELL

The Eleventh Circuit holds that an officer unlawfully prolonged a traffic stop by asking questions unrelated to the purpose of the stop, even though the stop was prolonged for a de minimis amount of time.

In *United States v. Campbell*, No. 16-10128, 2019 US App. LEXIS 530¹ (Jan. 8, 2019), a police officer in Georgia stopped a vehicle on an interstate for what the officer believed to be a malfunctioning turn signal. A videotape of the encounter was entered into evidence. The officer told appellant, the driver and lone occupant of the car, that he was going to issue him a warning. While writing the warning, the officer spent about two minutes asking appellant about his itinerary. Appellant said he was going to Augusta to visit family. The officer also asked appellant the following: “[Do you have] any counterfeit merchandise that you are taking to your relatives over there in Augusta? And what I mean by that is--any purses? Shoes? Shirts? Any counterfeit or bootleg CDs or DVDs or anything like that? Any illegal alcohol? Any marijuana? Any cocaine? Methamphetamine? Any heroin? Any ecstasy? Nothing like that? You don't have any dead bodies in your car?” This line of questioning took 25 seconds. Appellant replied that he did not, but agreed to allow his vehicle to be searched. The search revealed a firearm and he was arrested and indicted for possessing a firearm as a convicted felon, in violation of 18 U.S.C. § 922(g)(1). The federal district court denied appellant’s motion to suppress.

Relying on *Rodriguez v. United States*, 135 S. Ct. 1609, 191 L. Ed. 2d 492 (2015), the Court stated that a stop is unlawfully prolonged when an officer, without reasonable suspicion, diverts from the stop's purpose and adds time to the stop in order to investigate other crimes. Therefore, to unlawfully prolong a traffic stop, the officer must (1) conduct an unrelated inquiry aimed at investigating other crimes (2) that adds time to the stop (3) without reasonable suspicion.

First, appellant argued that the officer’s questioning of him about his travel plans unlawfully prolonged the stop. The Court disagreed. Generally, questions about travel plans are ordinary inquiries incident to a traffic stop. And here, the Court found, the questions were related to the

¹ Lexis refers to the case as US v. Meko. However, the defendant’s name is Ericson Meko Campbell and the slip opinion heading is US v. Erickson Meko Campbell.



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traffic violation – a malfunctioning turn signal – because appellant was travelling long distance and the chances that his turn signal would stop working while he was driving increased accordingly.

Next appellant argued that the questions about whether he had contraband in his car unlawfully prolonged the stop. The Court agreed. These questions were not related to a traffic stop for a malfunctioning turn signal. Instead, these questions were inquiring about crime in general and drug trafficking in particular. They added 25 seconds to the stop. And the Government did not contend that the officer had reasonable suspicion. Consequently, these questions unlawfully prolonged the stop which would require suppression of the evidence.

Because this is a decision of the Eleventh Circuit Court of Appeals, it is not binding on our state courts, although it could be used as persuasive authority. *Southstate Energy Servs., LLC v. Ellison*, 286 Ga. 709, 713 (2010). Also, the opinion is not necessarily inconsistent with our state precedent. Our Supreme Court has stated that “activities unrelated to the mission of the stop must not extend the time of the stop *at all*, and such a prolongation of the stop is not permissible even if those activities are done in the middle of the stop.” (Emphasis supplied) *State v. Allen*, 298 Ga. 1, 11 (2015), citing *Rodriquez v. US*. And, recently, the Georgia Court of Appeals held that “officers may ask questions unrelated to the purpose of the stop, *so long as they do not prolong the stop* beyond the time reasonably required to fulfill the stop’s purpose.” *Flores v. State*, 347 Ga. App. 174, 177 (2018). Furthermore, the officer is entitled during a traffic stop to take reasonable steps to determine whether the driver or the occupants of a stopped vehicle pose a danger to the officer’s safety. “These steps generally include checking for outstanding warrants and the criminal history of the occupants of the stopped vehicle and, as this enhances officer safety and until these checks are completed, there can be no undue prolongation of the traffic stop.” *Jackson v. State*, 335 Ga. App. 630, 632 (2016).

In *Campbell*, there was no evidence that the officer was waiting on a computer check of the driver’s license, insurance or registration and no evidence that the officer was waiting on a computer check on any outstanding warrants on the driver (there were no passengers). In fact, the evidence in *Campbell* showed that the officer had already run a check on the vehicle registration and knew, before he stopped the vehicle, that it belonged to appellant and that appellant was an “active felon.” Consequently, it is entirely possible that our appellate courts would have reached the same conclusion as the Eleventh Circuit given the particular set of facts stated in the case.



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Consequently, *Campbell* should not necessarily be read as a holding that any unrelated questions *per se* unreasonably prolongs a traffic stop. Rather, it should be treated as a strong caution, consistent with Georgia law, that questions unrelated to the purpose of the stop may be found to unlawfully prolong the stop, even if such questioning adds only a few seconds to the stop.