



April 6, 2020

## FYI: KANSAS v. GLOVER

*The U.S. Supreme Court holds when a police officer lacks information negating an inference that the owner is driving the vehicle, an investigative traffic stop made after running a vehicle's license plate and learning that the registered owner's driver's license has been revoked is reasonable under the Fourth Amendment.*

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In *Kansas v. Glover*, No. 18-556 (April 6, 2020) the parties stipulated to the following facts: An officer on routine patrol observed a pickup truck and learned from running the license plate that the registered owner was Glover and that Glover had a revoked driver's license. The officer assumed that the person driving the truck was Glover and initiated a traffic stop. When the driver was in fact identified as Glover, the officer arrested him.

The trial court granted Glover's motion to suppress. The Kansas Court of Appeals reversed, but then the Kansas Supreme Court overturned the Court of Appeals, finding that the officer did not have reasonable suspicion because the officer's inference that Glover was driving his own vehicle was "only a hunch" and based on an assumed fact that "the owner will likely disregard the suspension or revocation order and continue to drive." The Supreme Court granted the State of Kansas' petition for writ of certiorari and in an 8-1 decision, reversed the judgment of the Kansas Supreme Court.

The Court stated that the Fourth Amendment permits an officer to initiate a brief investigative traffic stop when the officer has a particularized and objective basis for suspecting the person stopped of criminal activity. Reasonable suspicion is more than a "hunch" but considerably less than proof by a preponderance of the evidence and even less than is necessary for probable cause. And, because it is a less demanding standard, reasonable suspicion depends on the factual and practical considerations of everyday life on which reasonable and prudent people, not legal technicians, act. Rather, reasonable suspicion permits officers to make common sense judgments and inference about human behavior.

Here, the Court found, the officer's commonsense inference that the owner of a vehicle was likely the vehicle's driver provided more than reasonable suspicion to initiate the stop, and that inference was not made unreasonable merely because a vehicle's driver is not always its registered owner or because Glover had a revoked license. Furthermore, though common sense sufficed to justify the officer's inference, empirical studies demonstrated that drivers with suspended or revoked licenses frequently continue to drive. And, the Court noted, Kansas' license-revocation scheme, which covers drivers who have already demonstrated a disregard for the law or are categorically unfit to

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drive, reinforced the reasonableness of the inference that an individual with a revoked license will continue to drive.

Nevertheless, Glover argued, the officer's inference was unreasonable because it was not grounded in his law enforcement training or experience. But, the Court stated, nothing in its Fourth Amendment precedent supports the notion that, in determining whether reasonable suspicion exists, an officer can draw inferences based on knowledge gained *only* through law enforcement training and experience. In fact, the inference that the driver of a vehicle is its registered owner does not require any specialized training; it is a reasonable inference made by ordinary people on an ordinary basis.

Next, Glover contended that allowing an officer to make an assumption the owner of the vehicle is the driver would eviscerate the need for officers to base reasonable suspicion on "specific and articulable facts" particularized to the individual because police could instead rely exclusively on probabilities. The Court disagreed. The Court stated that officers, like jurors, may rely on probabilities in the reasonable suspicion context. And, in any event, the officer did not rely exclusively on probabilities. Instead, he knew that the license plate was linked to a truck matching the observed vehicle and that the registered owner of the vehicle had a revoked license. Thus, the Court stated, combining database information and common sense judgments in this context is fully consonant with Fourth Amendment precedent.

However, the Court cautioned, its holding is a narrow one. Reasonable suspicion takes into account the totality of the circumstances. Thus, the presence of additional facts might dispel reasonable suspicion. As an example, the Court stated, if an officer knows that the registered owner of the vehicle is a senior citizen male, but observes the driver to be a female in her mid-twenties, the totality of the circumstances would not raise a reasonable suspicion that the particular individual stopped is engaged in wrongdoing. But, because the officer here possessed no exculpatory information – let alone sufficient information to rebut the reasonable inference that Glover was driving his own truck – the stop was justified.

Our Courts have addressed this issue in *State v. Martinez-Arvalo*, 340 Ga. App. 271 (2017). In *Martinez-Arvalo*, the Georgia Court of Appeals upheld a trial court ruling invalidating a traffic stop because the officer could have ascertained the gender of the driver (which did not match the registered owner), but made no effort to do so. The ability of the officer to confirm or refute the identity of the driver (or at least the gender of the driver) vis-a-vis the registered owner was not addressed in *Glover*. Thus, based on *Martinez-Arvalo*, our courts may require an officer make an attempt to do so before initiating a traffic stop.

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