Ohio Attorney General's
Law Enforcement
Bulletin

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State v. Hall, 2016 Ohio 3273

Question: Can excessive window tint on a vehicle form the basis of reasonable, articulable suspicion for a traffic stop?

Quick Answer: Yes, whether pretextual or not, a window tint violation may form the basis for a traffic stop.

Facts: Two officers were sitting in a parking lot of an apartment complex when they observed Hall pull in and park near them. Both noted the dark tint on the car windows that prohibited them from seeing through the windows. Both began to approach Hall, who was exiting the car. One officer opened the driver's door in order to use a "tint meter" to measure the window tint. Upon doing so, he smelled a strong odor of burnt marijuana. Simultaneously, the second officer discovered Hall's driver's license was suspended. After establishing their intent to arrest Hall for the suspended license, they inventoried his vehicle and found marijuana and a loaded handgun in the console. Hall filed a motion to suppress the evidence, but the trial court overruled the motion. After being found guilty of weapons under disability and carrying a concealed weapon, Hall appealed. On appeal, Hall argued that the officers did not have reasonable suspicion to stop him. The appeals court reaffirmed that a traffic stop for a window tint violation is lawful.

Keep in Mind: Ohio law requires that, where windows are tinted, 70 percent of light pass through a windshield and 50 percent of light pass through the front side windows.

State v. Hambrick, 2016 Ohio 3395

Question: Does an officer need to read Miranda rights to the driver of a vehicle prior to asking if the driver has any guns, knives, or drugs in the vehicle?

Quick Answer: Generally, no. An individual temporarily detained as part of a routine traffic or investigatory stop is ordinarily not "in custody" and would not be entitled to Miranda warnings.

Facts: Chillicothe Police Officer Short observed Hambrick inside a vehicle in a gas station lot and believed he was engaged in drug activity. Officer Short, who was familiar with Hambrick, checked his driving status and learned his license was suspended. Once Hambrick pulled out of the lot, Officer Short followed him in a marked cruiser and observed that Hambrick failed to properly signal a turn. The officer stopped Hambrick and informed him he did so for driving with a suspended license, the turn signal violation, and

suspicious behavior at the gas station. Officer Short then asked Hambrick if he "had any drugs, knives, or guns in the vehicle?" Hambrick admitted he "had some weed." Officer Short searched the vehicle and located marijuana and cocaine inside. Prior to trial, Hambrick filed a motion to suppress the evidence; it was denied. Hambrick was subsequently convicted of possession of drugs. On appeal, he argued the officer's questioning violated his Miranda warnings. The appeals court noted from the outset that in order for Miranda to apply, a person must be in custody and subjected to interrogation. The court established the statements were made within the first moments of the encounter, the questioning was routine and non-threatening, and Officer Short displayed no actions that would lead a reasonable person to believe his freedom had been curtailed to a degree associated with a formal arrest. Therefore, Hambrick was unable to demonstrate he was "in custody" when he made the incriminating statement.

Keep in Mind: After placing someone under arrest, Miranda is only required if the officer is going to ask questions designed to illicit incriminating responses.

State v. Thurman 2016 Ohio 3002

Question: Does calling a police officer an offensive name provide probable cause to arrest for disorderly conduct?

Quick Answer: Offensive language alone, directed toward a police officer generally, may not form probable cause to arrest for disorderly conduct.

Facts: Thurman was a suspect in a hit-and-run case. A deputy went to his house in an attempt to speak with him and observed him on a neighbor's porch across the street. Upon speaking with Thurman about the accident, Thurman began yelling at the deputy in front of teenagers who were on the porch. A woman came from inside the house and took the teens inside. The deputy again asked about the accident and Thurman called the deputy a racial epithet. At that point, the deputy placed Thurman under arrest for aggravated disorderly conduct. A subsequent search revealed a pill bottle containing prescription medication that didn't belong to Thurman. He filed a motion to suppress, challenging the arrest. The motion was denied by the trial court. At trial, Thurman was convicted of the charges. On appeal, Thurman argued, and the appellate court agreed, that words alone that are not "fighting words" directed at a peace officer could not form the basis of the aggravated disorderly conduct charge. In addition, the teens were taken inside and the interaction was solely between the deputy and defendant, whom the appeals court noted in its decision were Caucasian and African-American, respectively. Further, the words did not incite the deputy to violence; rather, he testified, he didn't appreciate the epithet being used toward him. The appellate court held the trial court erred in denying the motion to suppress.

Keep in Mind: The court noted that officers are expected to have thicker skin than the general public when it comes to insults directed toward them.

State v. Clements 2016 Ohio 3201

Question: Does the State's inability to produce a signed consent-to-search waiver render a subsequent search invalid?

Quick Answer: No, the courts will still use a totality-of-the-circumstances test to determine if the consent was given voluntarily.

Facts: Deputies went to Clements' home based on complaints of methamphetamine manufacturing. After deputies initially spoke to his daughter, Clements returned to his residence and spoke with the deputies outside. After explaining why they were there, they asked Clements for permission to search the residence. He then signed a written waiver form. The deputies searched the residence and found methamphetamine in a safe. Clements filed a motion to suppress, which was denied, and he was found guilty of manufacturing methamphetamine and possession of drugs. He appealed, arguing that the warrantless search was invalid. During the initial hearing, the state failed to produce the written waiver, contending it was lost. The court found there was competent, credible evidence, including the officers' testimony, that Clements signed the form. The court noted Clements was not in custody; the consent occurred in his front yard rather than a police station; there were no threats or promises made; and he willingly told deputies there was marijuana in a safe which also contained methamphetamine. Finally, the court said, although Clements was not told he could refuse the search, the prosecution is not required to demonstrate such knowledge as a prerequisite to establishing voluntary consent.

Keep in Mind: Although consent to search does not have to be in writing, the best practice is to obtain it in writing or document it by use of video or audio recording.