



The Seventh Circuit holds that a law enforcement officer unconstitutionally extended the Defendant's traffic stop and, therefore, affirms the District Court's decision to grant the Defendant's motion to suppress



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In *United States v. Rodriguez-Escalera*, ___ F.3d ___, 2018 WL 1178359 (7th Cir. Mar. 7, 2018), the United States Court of Appeals for the Seventh Circuit was asked to review the District Court's order that granted Defendant Mario Rodriguez-Escalera's motion to suppress. The District Court held the evidence of Rodriguez-Escalera's possession of methamphetamine was derived from an unlawfully extended traffic stop, and therefore, the search violated Rodriguez-Escalera's Fourth Amendment rights. Thereafter, the Government filed a timely notice of appeal. The relevant facts are as follows.

On October 4, 2016, Illinois State Trooper Kenneth Patterson observed a car abruptly switch lanes in front of a truck without using a turn signal on Interstate 70 in southern Illinois. Patterson decided to pull the car over for the traffic violation. Equipped with a dashboard video camera, Patterson's vehicle recorded the ensuing traffic stop.

Once the car stopped, Patterson approached the passenger side of the vehicle to find Rodriguez-Escalera in the front passenger seat and his fiancé Blanca Moran in the driver's seat. Patterson greeted them and asked Moran to provide her license, registration, and proof of insurance. Moran promptly complied. Moran's license indicated that she was from Paramount, California, a city in Los Angeles County. After gathering Moran's documentation, Patterson told Moran why he had stopped her and explained that he intended to issue a written warning to her for her traffic violation. Patterson asked Moran to accompany him in his squad car while he ran her information and issued the warning.

Patterson led Moran to the front passenger seat of his squad car and, then, returned to Moran's vehicle to ask Rodriguez-Escalera for his identification. As Rodriguez-Escalera retrieved his documentation, Patterson inquired where he and Moran were headed. Rodriguez-Escalera answered, "Pennsylvania." Rodriguez-Escalera then handed Patterson his Mexican identification card and his Mexican driver's license. Patterson kept the identification card and handed back the driver's license before returning to his squad car.

Back in his vehicle, Patterson reviewed Moran's and Rodriguez-Escalera's documents and began to question Moran about her travel plans. Moran told Patterson that she and Rodriguez-Escalera had come from Los Angeles and were heading to New York City to visit the city for the first time while she was on vacation from her job as a tax preparer and insurance broker. Patterson asked where she and Rodriguez-Escalera were planning to go in New York. Moran replied that she wanted to see Manhattan, Brooklyn, and the Statue of Liberty. When Patterson asked how long the trip would last, Moran told him that she had two weeks off from work. She and Rodriguez-Escalera did not have lodging booked in New York yet, she told Patterson, but they would look for a hotel when they arrived in the city.

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About eight minutes into the traffic stop, Patterson discovered that Moran's California driver's license was suspended. Patterson informed Moran, who was apparently surprised by the news, and asked whether Rodriguez-Escalera had a license so that he could drive instead. Moran said that he had a Mexican license, so Patterson returned to Moran's vehicle to collect it from him. Moran remained in the squad car. While Rodriguez-Escalera retrieved his license, Patterson probed for more information about the couple's apparently conflicting travel plans. Patterson asked Rodriguez-Escalera what city in Pennsylvania he and Moran were going to visit. Rodriguez-Escalera, who evidently had limited English skills, indicated that he did not know. Patterson then asked how long they were going to be gone; Rodriguez-Escalera said one or two days. Finally, Patterson asked if they were visiting friends or family there, and Rodriguez-Escalera said, "No."

After this brief exchange with Rodriguez-Escalera, Patterson returned to his squad car. About eleven minutes had passed since he initiated the traffic stop, and Patterson now had all of the information that he needed from Moran and Rodriguez-Escalera to issue the traffic citations and to send them on their way. But, Patterson had grown suspicious of the couple's travel plans and decided to have a narcotics-detection dog sniff Moran's vehicle. Patterson could see from his in-vehicle computer, however, that his department's K-9 unit was occupied with another traffic stop.

Patterson took nearly twenty-two minutes to issue Moran three routine traffic citations—one ticket for driving with a suspended license, one written warning for failing to signal when changing lanes, and one written warning for improper overtaking. Before he started writing the citations, Patterson asked Moran for more details about the couple's travel itinerary. Patterson inquired whether she and Rodriguez-Escalera planned to stop anywhere else on their way to New York. Moran said that they did not. Troubled by the apparent conflict, Patterson then asked if Rodriguez-Escalera knew that they were going to New York. Moran smiled and explained that she told Rodriguez-Escalera that they were going to Pennsylvania. When Patterson asked why, Moran said that she wanted the visit to New York City to be a surprise. Upon further questioning, Moran explained that Rodriguez-Escalera knew that they would be gone for two weeks. She also told Patterson that Rodriguez-Escalera was not currently employed but that he would be looking for work in construction once they returned to Los Angeles.

Over the next several minutes, Patterson worked at his in-vehicle computer, occasionally chatting more with Moran, as he listened to his police radio waiting for the K-9 unit to become available. Patterson eventually heard on the radio that the traffic stop holding up the K-9 unit had ended in an arrest. Patterson messaged State Trooper John Baudino, the K-9 unit officer, to see if he was available. Not until Baudino confirmed that he was available and on his way did Patterson begin writing Moran's ticket for driving with a suspended license.

Baudino raced to Patterson's location, arriving about ten or eleven minutes after Patterson's request and nearly thirty-three minutes into the traffic stop. As soon as he saw that Baudino's vehicle was behind him, Patterson handed Moran her traffic ticket and written warnings, along with her license, registration, and proof of insurance. Patterson then instructed Moran to stay in the squad car while the K-9 unit sniffed her vehicle. Patterson walked to Moran's car and told Rodriguez-Escalera to roll up his window.

Baudino walked his narcotics-detection dog around Moran's car twice. The dog did not alert him to the presence of any contraband. Despite the negative dog sniff, Patterson remained unconvinced. He returned to his squad car, where Moran was still detained, and resumed questioning her. Patterson asked Moran whether there was anything illegal in her vehicle, and she said there was not. Patterson explained that he just wanted to make sure that she and Rodriguez-Escalera were actually going to New York. Patterson inquired about Moran's luggage and whether anyone had given her any luggage to take along to New York. Moran said she only had her luggage.

Accordingly, Patterson told Moran that they were free to go but that he was concerned that there was something illegal inside their car. So, Patterson asked for Moran's permission to search the car, and Moran agreed to the search. Patterson and Baudino then conducted a search of Moran's vehicle. In her trunk, the officers uncovered approximately 7.5 pounds of methamphetamine hidden in two pieces of luggage. The officers also found nearly \$28,000 in cash in Moran's purse. Thereafter, Rodriguez-Escalera claimed ownership of the drugs, and Moran claimed ownership of the money.

The officers placed them both under arrest. Moran and Rodriguez-Escalera were each charged with one count of possession of methamphetamine with intent to distribute. Both filed pretrial motions to suppress the drug evidence seized from Moran's vehicle, claiming that Patterson unlawfully detained them beyond the time necessary to complete the traffic stop and that Moran had not freely given her consent to the search.

The District Court held a two-day evidentiary hearing on the motions to suppress. After considering Patterson's testimony and the video and audio recording of the traffic stop, the District Court concluded that Patterson did not have the reasonable suspicion necessary to extend the traffic stop. Contrary to Patterson's description of Moran's nervous demeanor, the District Court found that Moran was "relatively calm and collected throughout the stop," even as she was made to sit in Patterson's vehicle and answer questions for approximately thirty minutes. Likewise, the District Court found that Rodriguez-Escalera, despite his initial inattentiveness, responded when Patterson spoke directly to him. The District Court acknowledged that conflicting travel plans could support reasonable suspicion but determined that the additional information that Moran gave Patterson "objectively diminishe[d] the possible conflict." In the District Court's view, the Government's "proffered factors, individually and in combination, [we]re insufficient to support [its] claim that Trooper Patterson had a reasonable suspicion of criminal activity to justify a prolonged traffic stop." Because it concluded that Patterson unreasonably extended the traffic stop, the District Court granted Rodriguez-Escalera's motion to suppress the evidence obtained from Moran's vehicle as fruit of an unlawful seizure.

The Seventh Circuit began its opinion by explaining that the Fourth Amendment's protection against unreasonable searches and seizures extends to brief investigatory stops of persons or vehicles that fall short of traditional arrest. Thus, whenever a police officer decides to stop a vehicle, the stop must meet the reasonableness requirements of the Fourth Amendment. If a search or seizure violates the Fourth Amendment, courts should exclude the evidence gained from that violation.

Furthermore, the Seventh Circuit explained that the Fourth Amendment's rights are personal rights. Generally, a passenger lacks a legitimate expectation of privacy in a searched vehicle unless he can show that he has some possessory interest in it. However, the United States Supreme Court has held that, because a traffic stop seizes all vehicle occupants, a vehicle passenger has standing to suppress evidence derived from an unlawful traffic stop. *Brendlin v. California*, 551 U.S. 249, 255-59 (2007).

Finally, the Seventh Circuit explained that, in order to pull a car over for a brief investigatory stop, a police officer must have at least an articulable and reasonable suspicion that the particular person stopped is breaking the law. But, a seizure that is lawful at its inception can, nevertheless, violate the Fourth Amendment if it is prolonged beyond the time reasonably required to complete the initial mission of the stop.

Here, Patterson had an articulable and reasonable suspicion to stop Moran and Rodriguez-Escalera because Patterson witnessed their improper lane change in violation of Illinois law. However, the District Court found that this initial stop was prolonged to the point that it violated their Fourth Amendment rights, and the Seventh Circuit agreed.

In *Rodriguez v. United States*, ___ U.S. ___, 135 S. Ct. 1609 (2015), the Supreme Court considered what constituted the reasonable duration for a traffic stop. In that case, a police officer lawfully pulled a vehicle over for a traffic violation, issued a written warning for that violation, then continued to detain the vehicle and its driver while he conducted a dog sniff. The Supreme Court held that the officer's prolonged detention of the vehicle, even if it was slight, was unlawful, unless it was supported by a reasonable suspicion of criminal activity independently sufficient to justify a seizure. The authority to detain a vehicle and its occupants for a police-observed traffic violation, the Supreme Court reasoned, ends when the tasks tied to the traffic infraction are—or reasonably should have been—completed. Absent reasonable suspicion, law enforcement may not extend a traffic stop with measures like a dog sniff unrelated to the mission of the stop.

In this case, the Seventh Circuit found that the District Court did not err in finding that neither Moran nor Rodriguez-Escalera acted suspiciously nervous during the traffic stop. Likewise, the Seventh Circuit held that the District Court did not err in determining that the other objective facts that Patterson found to be suspicious fell short of reasonable suspicion.

The Seventh Circuit acknowledged that this was, “without a doubt a close case.” But, the record reflected that the District Court closely considered the evidence, weighed the credibility of the arresting officer's testimony, and considered the weight each factor merited, and concluded that the totality of the circumstances failed to support the officer's reasonable suspicion to extend the stop beyond its traffic-related mission. The Seventh Circuit could find no clear error in any of the District Court's factual findings; it agreed with the District Court's legal analysis; and, therefore, the Seventh Circuit affirmed the District Court's decision to grant the motions to suppress.