STATE OF INDIANA : IN MORGAN SUPERIOR COURT II

v.

ERIC D. WILSON CAUSE: 55D02-2406-CM-847

STATE'S CITATION OF CASE LAW AND BRIEF ANALYSIS

As to Legality or Not of the Search

As to Officer Merriman's suspicions that criminal activity was afoot, it is well settled that officers – duly informed by their training and experience – can reach reasonable suspicion and make investigatory stops based on their own observations. This is true even if said observations involve a degree of subjectivity and are not quantifiable. *Marshall v. State, 117 NE 3d 1254 (2019).*

Here, the uncontested facts are that Officer Merriman observed a driver – the Defendant, Mr. Wilson – enduring what appeared to Merriman to be sudden, seemingly uncoordinated bodily contortions.

Merriman had suspicion of criminal activity (a suspicion that was proven correct, though the State acknowledges that is not strictly relevant for this analysis). The only question then, is whether the Court determines such suspicion fell short of being "reasonable," given the information known to the officer at the time.

The State respectfully submits that the suspicion was reasonable given the information known to the officer at the time of the stop. The State further respectfully submits that in circumstances such as these, when a) an officer had to apply his training and experience to what he was seeing (inevitably engaging in a degree of subjective assessment) and b) when no testimony – no matter how lengthy or eloquent – can do full justice to what the officer observed, that a Court should reserve its power to retrospectively declare suspicion unreasonable for extreme cases.

The Stop was Independently Permissible on Community Protection Grounds

The State respectfully submits that an additional justification for the stop exists outside of the criminal investigatory framework (i.e. the protections against detention and search enshrined in the 4th Amendment and Article 1 Section 11 of the Indiana Constitution). That independent justification lies in Officer Merriman's duty to protect the public, including from dangers which are not criminal. The investigation of crimes is a major part of police duty to be sure, but so is community protection. If it were not, all police officers would be detectives. At the October 28, 2024 hearing on the Defense's motion to suppress, Officer Merriman testified at the hearing that he had a community safety concern.

Further, evidence of a crime is admissible even if it is discovered by law enforcement during a community protection function. In *Jones v. State, 54 NE 3d 1033 (2016)*, police conducted a welfare check on children at the home of a defendant arrested earlier that day. The police in that instance entered the home without warrant in order to conduct the check. They found the children unharmed and asleep but also discovered a marijuana grow operation in the master bedroom. That case involved a much more serious warrantless search than that involved here – a private home instead of a car being driven on a public roadway – and yet, the defense's motion to suppress failed at both the trial and appellate level.

Here, an officer observing seemingly uncontrolled contortions by someone currently driving a motor vehicle could reasonably fear that the driver either had already or was in the process of losing ability to safely drive the vehicle. In that instance, must an officer wait until a vehicle mounts the curb and strikes pedestrians before acting?

The State submits that the search was legal under both theories and respectfully requests the Court deny the motion.

Respectfully submitted,

/s/Jacob Moore
Jacob Moore
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that service has been made to Defense Counsel by email or e-file notice this 12th day of November, 2024.

/s/Jacob Moore
Jacob Moore
Deputy Prosecuting Attorney