United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
August 1, 2024
Lyle W. Cayce
Clerk

No. 23-20403

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

QUINCY PALMER,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:22-CR-369-1

Before WIENER, ELROD, and WILSON, *Circuit Judges*.

JENNIFER WALKER ELROD, *Circuit Judge*:

Officers with the Houston Police Department stopped Quincy Palmer for driving with a tinted windshield, which is a violation of Texas law. During his discussion with officers, Palmer admitted to possessing a firearm and to being a felon. Palmer moved to suppress evidence from the traffic stop, arguing that the officers lacked reasonable suspicion to stop him and that statements that he made to the officers should be suppressed under *Miranda v. Arizona*, 384 U.S. 436 (1966). Because the district court did not clearly err in finding both that the officers had reasonable suspicion to stop Palmer and

that Palmer's statements were not made in response to "custodial interrogation," we AFFIRM.

I

In March 2022, two officers with the Houston Police Department pulled over Palmer in a residential neighborhood. After exiting his police vehicle, Officer Kenneth Bradshaw explained to Palmer that the officers stopped him because the front windshield of Palmer's vehicle was tinted in violation of Texas law. Officer Wesley Moseley also commented on the rims of Palmer's vehicle, stating, "You know these things are too long out here man!" Palmer also had a large, stuffed Mario plush toy attached to the back of his vehicle[1]:

Officer Bradshaw asked for Palmer's driver's license and proof of insurance, and Palmer complied. When the officers returned to their patrol vehicle, Officer Bradshaw told Officer Moseley that he detected the odor of marijuana emanating from Palmer's vehicle. Officer Bradshaw then

[1] Mario, as Palmer's brief helpfully explains, "is a video game character and the mascot of the Japanese company Nintendo. He is an Italian plumber who resides in the Mushroom Kingdom with his younger twin brother, Luigi."

explained to Officer Moseley that he planned to issue a citation for Palmer's windshield tint.

After returning to Palmer's vehicle, Officer Bradshaw explained that he smelled marijuana, and Palmer admitted to having a "zip," slang for an ounce, of marijuana in his vehicle. Officer Bradshaw then asked Palmer to step out of the vehicle. Officer Moseley asked Palmer, "It ain't nothing else but weed, right?" As Palmer exited the vehicle and as Officer Bradshaw prepared to handcuff him, Palmer explained that he had an "AR" in the back seat and that he was a convicted felon.[2] Later, the officers placed Palmer in the patrol vehicle.

A grand jury indicted Palmer for unlawful possession of a firearm by a felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Palmer moved to suppress evidence from the traffic stop, arguing that the officers lacked reasonable suspicion to detain him and that his "admissions about the AR-15" were the product of *Miranda* violations.

The district court denied Palmer's motion to suppress following a hearing on the motion. It found both that the officers had reasonable suspicion to stop Palmer for the windshield tint and that *Miranda* did not apply because Palmer's challenged statements were not given during custodial interrogation. Palmer later pleaded guilty to possession of a firearm by a felon and was sentenced to thirty-five months of imprisonment and three years of supervised release. As part of his plea agreement, Palmer reserved the right to appeal the district court's ruling in the suppression hearing.

Palmer now appeals the denial of his motion to suppress.

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[2] Officers later found a Smith & Wesson M&P 15 in Palmer's vehicle, which is an AR-15-style rifle.

II

Factual findings supporting the denial of a suppression motion are reviewed for clear error; conclusions of law are reviewed *de novo*. *United States v. Smith*, 952 F.3d 642, 646 (5th Cir. 2020). "A factual finding is not clearly erroneous as long as it is plausible in light of the record as a whole." *United States v. Bass*, 996 F.3d 729, 736 (5th Cir. 2021) (citation omitted). We review the evidence "in the light most favorable to the prevailing party, here the government." *United States v. Malagerio*, 49 F.4th 911, 915 (5th Cir. 2022) (citation omitted). Moreover, our review is "particularly deferential where denial of the suppression motion is based on live oral testimony because the judge had the opportunity to observe the demeanor of the witnesses." *United States v. Lim*, 897 F.3d 673, 685 (5th Cir. 2018) (citation omitted).

A

We first review the district court's conclusion that the officers had reasonable suspicion to detain Palmer. The Fourth Amendment generally requires officers to obtain a warrant before searching or seizing an individual. *See Terry v. Ohio*, 392 U.S. 1, 20 (1968). However, police officers may briefly detain a person for investigative purposes if they can point to "specific and articulable facts" that give rise to a reasonable suspicion that the suspect has committed, is committing, or is about to commit a crime. *United States v. Hill*, 752 F.3d 1029, 1033 (5th Cir. 2014).

For a traffic stop to be justified, an officer must have reasonable suspicion "before stopping the vehicle." *United States v. Lopez-Moreno*, 420 F.3d 420, 430 (5th Cir. 2005) (citation omitted). The government bears the burden of showing that reasonable suspicion existed justifying the seizure. *United States v. Martinez*, 486 F.3d 855, 859–60 (5th Cir. 2007) (citation omitted).

Here, Officer Bradshaw's written report prepared after the arrest identified two bases for the stop: (1) the illegal tint on Palmer's front windshield and (2) the lack of a front license plate. At the suppression hearing, Officer Bradshaw testified that, although he initially thought that Palmer's car lacked a lawfully displayed front license plate, he later realized that was a mistake and agreed that Palmer's vehicle did have a front license plate. He stated that the "main focus" was the tint on the front windshield. Officer Bradshaw testified further that Palmer's "front windshield was completely tinted to where you could not see anything inside of the vehicle."

Under Texas law, a motorist may have tint on his or her front windshield so long as it does not extend "more than five inches from the top of the windshield." Tex. Transp. Code. § 547.613(b)(1)(D). Officer Bradshaw testified that the tint on Palmer's vehicle extended "all the way to past the windshield wipers, which is well beyond the 5-inch rule." His testimony is corroborated by Officer Moseley's body camera video from the stop, in which Palmer's front windshield, viewed through his rolled-down passenger side window, appears very dark:

Based on the video evidence and testimony presented at the suppression hearing, the district court found that the officers had reasonable

suspicion to believe that Palmer's vehicle had a tinted windshield in violation of Texas law. We agree.

Palmer argues that illegal window tint alone cannot be the basis for reasonable suspicion, but his reliance on *United States v. Guerrero-Barajas*, 240 F.3d 428 (5th Cir. 2001), is misplaced. In *Guerrero-Barajas*, we held that "tinted or heavily tinted windows" alone do not give rise to a reasonable suspicion that a vehicle's occupants are involved in "the illegal activity of transporting illegal aliens." *Id.* at 433. Here, by contrast, officers pulled over Palmer because he violated the Texas Transportation Code's prohibition on windshield tint, not because they suspected him of illegal activity involving immigration. Indeed, since *Guerrero-Barajas*, we have recognized that that case does not foreclose reasonable suspicion for window-tint violations. *United States v. Stevenson*, 97 F. App'x 468, 469 (5th Cir. 2004). For a traffic stop to be justified, "an officer must have an objectively reasonable suspicion that some sort of illegal activity, such as a traffic violation, occurred, or is about to occur, before stopping the vehicle." *Lopez-Moreno*, 420 F.3d at 430 (citation omitted). And here, officers observed that the tint on Palmer's front windshield extended well more than five inches below the top of the windshield, a violation of Texas law. Tex. Transp. Code § 547.613(b)(1).

It is "plausible in light of the record as a whole" that Palmer's front windshield was illegally tinted. *Bass*, 996 F.3d at 736 (citation omitted). Accordingly, the district court did not err when it concluded that officers had reasonable suspicion to stop Palmer. Because this basis alone supports reasonable suspicion, we need not decide whether officers had reasonable suspicion to believe Palmer committed additional traffic violations for the length of his rims. *See United States v. Zuniga*, 860 F.3d 276, 282 (5th Cir. 2017).

B

Palmer also argues that the district court erred in denying his motion to suppress his incriminating statements because he made them in response to custodial interrogation without receiving the warnings required under *Miranda v. Arizona*, 384 U.S. 436 (1966).

To safeguard the Fifth Amendment's privilege against self-incrimination, the Supreme Court in *Miranda* established a prophylactic set of warnings that law enforcement officers must provide criminal suspects before their incriminating statements will be admissible at trial. *Maryland v. Shatzer*, 559 U.S. 98, 103 (2010). *Miranda* protects statements made in response "to custodial interrogation." *United States v. Wright*, 777 F.3d 769, 774 (5th Cir. 2015) (quoting *McNeil v. Wisconsin*, 501 U.S. 171, 178 (1991)). Thus, a defendant's statements are admissible if they are made outside of custodial interrogation. *United States v. Harrell*, 894 F.2d 120, 123 (5th Cir. 1990).

"A suspect is . . . 'in custody' for *Miranda* purposes when placed under formal arrest or when a reasonable person in the suspect's position would have understood the situation to constitute a restraint on freedom of movement of the degree which the law associates with formal arrest." *Wright*, 777 F.3d at 774 (alteration in original) (quoting *United States v. Bengivenga*, 845 F.2d 593, 596 (5th Cir. 1988) (en banc)). Whether a suspect is "in custody" is an objective inquiry that depends on the totality of circumstances. *United States v. Nelson*, 990 F.3d 947, 955 (5th Cir. 2021) (citation omitted).

Palmer does not contend that he was under "formal arrest" when he made the challenged statements, so we must first look to the "freedom-of-movement" test when analyzing whether he was "in custody" for *Miranda* purposes. This test involves several factors, including: (1) "the length of the

questioning"; (2) "the location of the questioning"; (3) "the accusatory, or non-accusatory, nature of the questioning"; (4) "the amount of restraint on the individual's physical movement"; and (5) "statements made by officers regarding the individual's freedom to move or leave." *Wright*, 777 F.3d at 775 (citations omitted). Generally, "the temporary and relatively nonthreatening detention involved in a traffic stop or *Terry* stop does not constitute *Miranda* custody." *Shatzer*, 559 U.S. at 113 (internal citation omitted).

The freedom-of-movement test is a necessary but not sufficient condition for *Miranda* to apply. *Id.* at 112. If a suspect's freedom of movement is restrained, the court must then assess whether officers applied "the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*." *United States v. Rafoi*, 60 F.4th 982, 1006 (5th Cir. 2023) (quoting *Howes v. Fields*, 565 U.S. 499, 509 (2012)).

The district court found both that Palmer's freedom of movement was not restrained to the degree of a formal arrest, and that the environment in which Palmer was questioned did not involve the same "inherently coercive pressures" as the type of "station house questioning" at issue in *Miranda*. We agree with the district court.

Here, the officers spoke with Palmer for only a few minutes during a routine traffic stop on a residential street, and the officers were never accusatory or threatening. Indeed, Palmer admitted that there was a firearm in his vehicle and that he was a felon less than three minutes after officers first spoke with him and within thirty-five seconds after officers reapproached his vehicle. *See United States v. Ortiz*, 781 F.3d 221, 233 (5th Cir. 2015) (concluding that thirty-minute interview did not suggest that the defendant was in custody); *cf. Wright*, 777 F.3d at 777 (concluding that an hour-long interview suggested custody). Further, Palmer spoke with police

in a road-side and public setting, which "weighs against the conclusion that a suspect is in custody." *Ortiz*, 781 F.3d at 231 (citation omitted); *see also Berkemer v. McCarty*, 468 U.S. 420, 440 (1984) (holding that persons detained pursuant to "ordinary traffic stops" are not "in custody" for *Miranda* purposes).

Handcuffing generally weighs in favor of a finding of custody. *See United States v. Cavazos*, 668 F.3d 190, 194–95 (5th Cir. 2012). We have explained, however, that "the brief handcuffing of a suspect does not render an interview custodial *per se*." *United States v. Michalik*, 5 F.4th 583, 589 n.3 (5th Cir. 2021) (citing *Ortiz*, 781 F.3d at 231–33). In this case, Palmer informed officers that he possessed marijuana before he was handcuffed, and he was in the process of being handcuffed when he explained that he had a firearm and was a felon.

According to Officer Bradshaw's testimony at the suppression hearing, the handcuffs were not for the purpose of arresting Palmer, because "there's no arrest made" when a suspect admits to possession of minor amounts of marijuana.[3] Rather, officers detained Palmer to ensure their own safety while they conducted a search of Palmer's vehicle to verify the amount of marijuana. Although the officers did not explicitly say as much to Palmer, the officers' comments immediately before handcuffing Palmer suggested that Palmer was not under arrest. After Palmer admitted to having an ounce of marijuana in his vehicle, Officer Moseley said, "you're all right man" and

[3] At the suppression hearing, Officer Bradshaw explained that officers in Harris County, the county in which Houston is located, release suspects that have less than four ounces of marijuana on their person if they qualify for a diversion program. Because Palmer admitted to having only one ounce of marijuana, he was below the threshold, and Officer Bradshaw intended only to "confiscate the weed" and issue a release form requiring Palmer to take a course and pay a small fine if he otherwise met the program's requirements.

reassured Palmer that "it's weed," suggesting by his tone that it was not a serious crime, and that Palmer was not under arrest. After these comments, and in response to Officer Moseley's question—"It ain't nothing else but weed, right?"—Palmer blurted out that he had an "AR" in his vehicle. Viewed under the totality of the circumstances, we cannot say that, under these facts, the district court erred by concluding that the officers did not restrain Palmer's freedom of movement to "the degree which the law associates with formal arrest." *Ortiz*, 781 F.3d at 229, 231 (concluding that a suspect was not in custody when officers handcuffed him in order to frisk him).

The officers' questions in this case, moreover, do not arise to "the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*." *Howes*, 565 U.S. at 509. The officers posed general questions about the presence of drugs and other illegal items in the vehicle, which are common questions for a traffic stop, and which do not, standing alone, transmogrify a traffic stop into *Miranda* custody. *United States v. Reyes*, 963 F.3d 482, 486, 490–91 (5th Cir. 2020). Indeed, the officers, who had no reason to believe that Palmer had a firearm until he stated that he did, never exhibited an accusatory demeanor. *See Michalik*, 5 F.4th at 588 (concluding that interview was not custodial interrogation where conversation was "cordial" and suspect was "cooperative"). Without any hesitation, Palmer "freely shared" information on the firearm and his felon status after a brief and polite exchange with officers. *Bass*, 996 F.3d at 740.

The Supreme Court has routinely counseled against *Miranda* protection for "nonthreatening detention involved in a traffic stop or *Terry* stop" like this one. *Howes*, 565 U.S. at 510 (quoting *Shatzer*, 559 U.S. at 113). And this makes sense: "[Q]uestioning incident to an ordinary traffic stop is quite different from stationhouse interrogation, which frequently is prolonged, and in which the detainee often is aware that questioning will

continue until he provides his interrogators the answers they seek." *Berkemer*, 468 U.S. at 438 (citation omitted). This case is a far cry from the "threatening" or "stationhouse" interrogation tactics that implicate *Miranda*'s protections.

Simply put, Palmer blurted out that he had an "AR" in his vehicle in response to a non-accusatory question about the contents of his vehicle, and, within seconds, confirmed that he was a convicted felon. Under the totality of the circumstances, we cannot say that the district court erred, much less clearly so, when it found that Palmer's responses were made in response to questions that lacked the coercive pressures that would trigger *Miranda*. Thus, the district court did not err by denying Palmer's motion to suppress. *Ortiz*, 781 F.3d at 233.

* * *

For the foregoing reasons, we find no error in the district court's denial of Palmer's motion to suppress. The record reflects that Palmer was in violation of at least one Texas law, giving the officers reasonable suspicion to detain him. Further, we agree with the district court's conclusion that Palmer's statements were not given in response to "custodial interrogation," and thus there was no *Miranda* violation. Accordingly, we AFFIRM.