UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 93-5585

(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEE A. BATES,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
(1:93-CR-105)

(July 25, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:[*]

Lee Bates appeals her conviction for possession with intent to distribute marijuana, in violation of 21 U.S.C. § 841(a)(1) (1988), contending that the district court erred in denying her motion to suppress. Finding no error, we affirm.

In May 1993, police officers David Froman and Gerald LaChance observed a motor home traveling eastbound on Interstate 10 near Beaumont, Texas. Bates was the driver of the motor home. Officer

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[*] Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Froman testified that on two occasions the motor home ventured onto another lane without signaling and on one occasion drifted onto the shoulder of the highway. After being signaled to stop by officer Froman, Bates stopped the motor home on the shoulder of an overpass.

Bates met officer Froman at the rear of the motor home, which immediately made Froman suspicious because he had previously encountered individuals who did this to keep police officers away from their vehicles. Officer Froman further testified that Bates was extremely nervous, could not stand in one place, was chain-smoking, would not make eye contact, and was visibly shaken. From his vantage point, officer Froman smelled the distinct odor of fabric softener, which he knew was often used to mask the odor of marijuana. He also could see within the motor home an overabundance of air fresheners.

Officer Froman subsequently prepared a consent-to-search form, which Bates refused to sign. Froman then called for a sniffing dog. When Bates was told that the dog was coming, she gave the officers permission to search the motor home. Because the motor home was stopped on the right shoulder of the overpass with little space between the vehicle and the traffic lane, Bates was asked to move the motor home about a quarter of a mile to a parking lot off of the nearest exit. Within approximately six minutes after Bates moved the motor home to the parking lot, the sniffing dog appeared. The dog then proceeded to alert the officers to the presence of drugs within the motor home. Officer Froman subsequently entered

the motor home where he found about 220 pounds of marijuana in a hidden compartment at the rear of the vehicle. Bates's motion to suppress was denied by the district court.

In reviewing a district court's denial of a motion to suppress, we review the court's findings of fact for clear error and its conclusions of law de novo. *United States v. Shabazz,* 993 F.2d 431, 434 (5th Cir. 1993). Because the district court made no findings of fact or conclusions of law supporting its judgment, "we must independently review the record to determine whether any reasonable view of the evidence supports admissibility." *United States v. Yeagin,* 927 F.2d 798, 800 (5th Cir. 1991).

Bates argues that the officers' relocation of the motor home to a spot approximately one-quarter mile from the location of the initial stop, constituted an unreasonable seizure under the Fourth Amendment.[1] "The Fourth Amendment is not, of course, a guarantee against *all* searches and seizures, but only against *unreasonable* searches and seizures." *United States v. Sharpe,* 105 S. Ct. 1568, 1573 (1985). When evaluating the reasonableness of an investigative stop, we examine "`whether the officer's action was justified at its inception, and whether it was reasonably related to the circumstances which justified the interference in the first place.'" *Id.* (quoting *Terry v. Ohio,* 88 S. Ct. 1868, 1879 (1968));

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[1] Given the undisputed fact that the officers had an articulable suspicion that the motor home contained contraband, we reject at the outset Bates's argument that the continued detention of the motor home had to be supported by probable cause. *See Terry v. Ohio,* 88 S. Ct. 1868, 1880 (1968) (acknowledging the authority of the police to make a forcible stop of a person when the officer has a reasonable, articulable suspicion that the person has been, is, or is about to be engaged in criminal activity).

see also United States v. Place, 103 S. Ct. 2637, 2642 (1983) ("When the nature and extent of the detention are minimally intrusive of the individual's Fourth Amendment's interests, the opposing law enforcement interests can support a seizure based on less than probable cause."). We agree with Bates that the forced relocation of the motor home constituted a seizure for purposes of the Fourth Amendment.[2] We disagree, however, with her argument that the seizure was more than minimally intrusive of her rights under the Fourth Amendment, such that the relocation of the motor home had to be supported by probable cause. The motor home was originally parked close to a traffic lane on a busy interstate overpass. To assure the safety of the detection dog and the handling officer, the officers moved the motor home to a nearby parking lot only a quarter of mile away. The time between the move and the dog inspection was about six minutes. Under these circumstances, we cannot conclude that the relocation of the motor home constituted an unreasonable seizure under the Fourth Amendment.[3]

Accordingly, we AFFIRM the judgment of the district court.

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[2] For purposes of this opinion only, we assume without deciding that Bates did not consent to the relocation of the motor home. The district court did not make a finding concerning consent.

[3] We find misplaced Bates's reliance on *United States v. Place,* 103 S. Ct. 2637 (1983). There, the Court held that the duration of the detention))ninety minutes))rendered the seizure unreasonable under the Fourth Amendment.