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# DPS TRAINING BULLETIN

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LEGAL BULLETIN NO. 202  
July 15, 1996

TRAFFIC STOP FOR A MINOR VIOLATION BY  
PLAINCLOTHES OFFICERS PASSES  
"REASONABLE OFFICER TEST"

Reference: Michael A Whren &  
James L. Brown  
v.  
United States

United States Supreme Court  
Opinion No. 95-5841  
June 10, 1996

FACTS:

Two District of Columbia plainclothes vice officers were in an unmarked car patrolling a "high drug" area. Their suspicions were aroused when they passed a vehicle with temporary license plates and youthful occupants waiting at a stop sign. The driver of the vehicle was looking down into the passenger at his right. The vehicle remained stopped at the intersection for what seemed an unusually long time--more than 20 seconds. The officers then made a U-turn in order to head back to the vehicle. At that time, the vehicle suddenly turned right, without signalling, and sped off at an unreasonable speed. The officers stopped the vehicle. Upon approaching it, one of the officers observed two large plastic bags in the hands of Whren, the passenger, which contained crack cocaine. Both Brown and Whren were arrested.

Police Department Regulations 303.1(A)(2)(4) permit plainclothes officers in unmarked vehicles to enforce traffic laws only in cases of violations grave enough to pose immediate threats to the safety of others.

ISSUE:

Does the constitutional reasonableness of traffic stops depend on the actual motivations of the individual officers involved?

HELD: No.

REASONING:

1. Temporary detention of individuals during the stop of a vehicle by the police, even if only for a brief period and for a limited

purpose, constitutes a seizure within the meaning of the Fourth Amendment.

2. As a general matter, the decision to stop a vehicle is reasonable where the police have probable cause to believe a traffic violation has occurred.

3. Making an out-of-uniform traffic stop does not remotely qualify as an extreme practice; it is governed by the usual rule that "probable cause to believe the law has been broken" outbalances private interest in avoiding police contact.

4. This stop was reasonable under the Fourth Amendment and the evidence discovered is admissible.

**NOTES:**

The court pointed out, in this case, that the Constitution does prohibit "selective enforcement" of the law based on considerations such as race or the making of "random traffic stops" for the purpose of checking a motorist's license and vehicle registration.

The Constitution is not governed by police departments' (in this case, the District of Columbia) general orders and policies.

**NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:**

Add this case to Section I, "Investigatory Seizure of Persons and Things," and Section K, "Plain View," of your Contents and Text. File Legal Bulletin No. 202 numerically under Section R of the manual.