



## DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 375

April 23, 2015

### DOG SNIFF CONDUCTED AFTER COMPLETION OF A TRAFFIC STOP

**Reference:** Dennys Rodriguez United States Supreme Court  
No. 13-9972  
v. April 21, 2015  
United States

#### **FACTS:**

At 12:06 a.m., a K-9 officer stopped a vehicle on a Nebraska Highway for "driving on a highway shoulder." The driver turned out to be RODRIGUEZ. Scott POLLMAN was a passenger in the front seat. The officer told RODRIGUEZ why he stopped him. RODRIGUEZ responded he drove on the shoulder to avoid a pothole. The officer asked RODRIGUEZ for his license, registration, and proof of insurance, and then asked if he would accompany him to the police car. RODRIGUEZ asked the officer he was required to do so, and when the officer said no RODRIGUEZ elected to stay in his vehicle.

After running a records check on RODRIGUEZ, the officer asked passenger POLLMAN for his identification. A records check was conducted on POLLMAN with negative results.

Finally, the officer returned to the vehicle and asked RODRIGUEZ for permission to walk his dog around his vehicle. RODRIGUEZ said no. By this time, it was about 12:28 a.m. The officer instructed RODRIGUEZ to turn off his car, exit the vehicle, and stand in front of the patrol car to wait for a second officer. When the second officer arrived, the officer led the drug dog twice around RODRIGUEZ vehicle. The dog alerted to the presence of drugs about halfway during the second walk around. In all, about eight minutes elapsed from the time the officer issued a written warning for driving on the shoulder until the drug dog indicated the presence of drugs.

A search of the vehicle revealed a large bag of methamphetamine.

RODRIGUEZ argued the evidence should be suppressed on the ground, among other things, that the officer prolonged the traffic stop without reasonable suspicion in order to conduct the dog sniff.

**ISSUE:**

Did the officer prolong the traffic stop without reasonable suspicion in order to conduct the dog sniff?

**HELD** Yes - absent reasonable suspicion, police extension of a traffic stop in order to conduct a dog sniff violates the Constitution's shield against unreasonable seizures.

**REASONING:**

1. A seizure justified only by a police-observed traffic violation becomes unlawful if it is prolonged beyond the time reasonably required to complete the mission of issuing a ticket for the violation. (See Illinois v Caballes, bulletin no. 292)
2. A dog sniff is not fairly characterized as part of the officer's traffic enforcement mission.
3. Beyond determining whether to issue a traffic ticket, an officer's mission during a traffic stop typically includes checking the driver's license, determining if the driver has outstanding warrants, and inspecting the automobile's registration and proof of insurance.
4. A dog sniff, by contrast, is a measure aimed at detecting evidence of ordinary criminal wrongdoing.
5. Traffic stops are especially fraught with danger to police officers, so an officer may need to take certain negligibly burdensome precautions (e.g. ordering to stay in, or get out of, a stopped vehicle) in order to complete his mission safely. (See Arizona v Johnson, bulletin no.335)

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