

WISCONSIN SUPREME COURT
WEDNESDAY, MARCH 4, 2015
9:45 a.m.

This is a review of a decision of the Wisconsin Court of Appeals, District IV (headquartered in Madison), which affirmed a Grant County Circuit Court decision, Judge Craig R. Day, presiding.

2013AP430-CR

[State v. Hogan](#)

This case examines whether evidence that led to the conviction of Patrick I. Hogan on charges of possession of methamphetamine and child neglect should have been suppressed because of the way police obtained the evidence during a traffic stop.

Some background: Hogan was driving a pick-up truck. His wife was in the front passenger seat, and their daughter was in a car safety seat on the rear bench seat of the vehicle. Police lawfully pulled Hogan over for a seatbelt violation. Police then extended the stop for an OWI investigation. The parties agree that the police lacked reasonable suspicion to extend the stop for an OWI investigation.

After being put through field sobriety tests, Hogan was told he was free to leave. About 16 seconds later, police re-approached and asked if they could search Hogan's vehicle. Hogan consented and police found methamphetamine, methamphetamine paraphernalia, and loaded guns in his pick-up truck.

During the ensuing criminal prosecution, Hogan moved to suppress the evidence obtained during the search of his vehicle. Hogan argued that the evidence was obtained in violation of his Fourth Amendment rights because police lacked reasonable suspicion to extend the traffic stop for field sobriety tests, and he was illegally seized at the time he consented to the search.

Following an evidentiary hearing, the trial court ruled that the police lacked reasonable suspicion that Hogan was impaired, and thus the extension of the stop beyond the seat belt citation was illegal.

However, the trial court also determined that the police officer terminated the stop after the field sobriety test ended, and that the subsequent contact and consent to search were sufficiently attenuated from the illegality to render Hogan's consent to search the vehicle valid. Accordingly, the trial court denied the motion to suppress. Hogan then pled no-contest to possession of methamphetamine and child neglect.

Hogan appealed, unsuccessfully. Hogan argued that he was illegally seized at the time he consented to a search, and thus his consent was invalid. Hogan also argued that, even if he was not seized at the time of the search, his consent was invalid because it was tainted by the prior illegal detention.

The court of appeals rejected both of Hogan's arguments, ruling that the illegal detention terminated when Officer Smith told Hogan he was free to leave, and that the illegal detention did not taint Hogan's consent to the search.

Hogan asks the Supreme Court to evaluate his claim that he was still constructively being illegally detained by police at the time he gave consent to search his truck. Hogan argues in the alternative that if the illegal detention is deemed to have ended when the officers briefly disengaged from Hogan, the 16 second disengagement of Hogan by law enforcement officers was not enough to attenuate the illegal detention of Hogan from his consent to search his truck.