

COA Opinion: Alleged unlawful detention does relieve an individual from criminal liability for assaulting police officers

11. March 2010

On March 9, 2010, the Court of Appeal published its January 2010 decision in *People v. Corr*, No. 289330. In this case, the Court of Appeals reversed the decisions of the district and circuit courts which had found that a criminal defendant should not be bound over for trial on a charge of resisting a police officer where the underlying detention of that individual was illegal. In this case, the defendant was a passenger in a truck where the driver had already been arrested for drunk driving. After the driver's arrest, defendant exited the truck and refused to comply with police instructions to get back in the vehicle and then kicked and shoved the officers. Both the district court and the circuit court concluded that, under these circumstances, the instructions to the defendant were unlawful, and thus she had been illegally detained and cited that detention as the basis for refusing to bind over the defendant for trial. The district court reasoned that defendant had not refused any lawful commands as the legal basis for the decision, while, on appeal, the circuit court applied the exclusionary rule to exclude the officers' testimony because of their unlawful detention and affirmed the district court's decision. The Court of Appeals, however, disagreed with the premise of the lower-court decisions. It determined that the instructions to the defendant to stay in the truck were lawful pursuant to the officers' authority to maintain control over the scene. The Court also concluded that even if the detention was unlawful, that is not a proper basis to allow someone to resist or obstruct officers in the course of their duties. Once the defendant used force, there was probable cause for a lawful arrest and the exclusionary rule would not apply to bar evidence of such conduct. Thus, the Court of Appeals reversed and remanded the case to be bound over for trial.