

“Vermont Supreme Court Upholds Speeding Stop in DUI/Drunk Driving Case”

CASE NAMES:

Vermont v Dunham

FACTS:

Immediately prior to midnight, December 10, 2011 a Vermont state trooper observed a truck, being operated by the defendant Todd Dunham, traveling on a Vermont State highway. As the defendant neared an intersection, and approximately 100 feet from where the officer was parked, the truck “spun its tires and appeared to accelerate rapidly.” The officer was not able to use his radar, but he visually estimated the speed of the truck to be 45 miles per hour in a 30 mile per hour posted speed zone. The officer did not observe the truck to be speeding as it approached the intersection.

Having determined that the truck was speeding, the officer followed the defendant and initiated a traffic stop. After a roadside investigation, the defendant was cited for DUI/drunken driving.

PROCEDURAL HISTORY:

At the trial level the defendant filed a motion to suppress challenging the underlying traffic offense as being unconstitutional; this motion was denied. The defendant appealed this motion to suppress, arguing that the officer’s visual speed estimate did not provide sufficient/constitutional “reasonable suspicion” for the traffic stop (Dunham’s case was consolidated for review with a similarly situated defendant Heidi Tatham).

ISSUE:

Can a police officer’s visual estimate alone of a defendant’s speed support “reasonable suspicion” to warrant and justify a traffic stop?

HOLDING:

Yes. “It is well settled that police may stop a vehicle if “reasonable and articulable suspicion” exists that a motor vehicle violation is taking place. ...reasonable and articulable suspicion does not require proof beyond a reasonable doubt or even proof by a preponderance of the evidence that criminal activity is afoot. Rather, the officer needs more than only an unparticularized suspicion or hunch to make a lawful investigatory stop.... The issue of whether reasonable suspicion supports a particular stop is factually driven and depends upon the totality of the circumstances.”

Turning to the case at bar, the lower court deemed the officer’s visual speed estimate to be credible. The officer had previously underwent specialized training in visual speed estimation for radar certification. To successfully complete this aspect of radar training, it was necessary for the arresting officer to estimate vehicle speed to an accuracy of five miles per hour. The arresting officer in Dunham’s case successfully completed the training in 2006 and had continued to make visual estimates of speed anywhere from one to three thousand stops per year for excessive speed. Critically, the facts in

Dunham's case is that the officer observed the speed to be significantly higher than the posted speed limit such that the difference would be discernible to a casual observer and particularly to a trained law enforcement officer. The presence of the defendant traveling in significant excessive of the posted speed limit gives strong indicia of reliability to support the trial court. Based upon the significant speed differential, as well as the officer's experience and training, we find that the trial court's conclusion that the arresting officer had reasonable suspicion to effect the traffic stop is supported by the evidence; therefore, the denial of the defendant's motion to suppress is affirmed.