

LENGTH OF DETENTION CAN TURN CONSTITUTIONAL DETENTION SUPPORTED BY REASONABLE SUSPICION INTO DE FACTO ARREST UNSUPPORTED BY PROBABLE CAUSE

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Arizona v. Boteo-Flores

Arizona Supreme Court, July 3, 2012

Authored by the [JSH Appellate Team](#)

Police officers went to an apartment complex and saw a black truck matching the description of a stolen vehicle. The officers observed a maroon car with one driver come up acting suspiciously, looking up and down the street with binoculars. The maroon car drove off and returned with three individuals and headed to the back of the complex. Several minutes later, the Defendant walked down the driveway to the edge of the street and looked up and down it several times. A few minutes later, the driver of the maroon car drove out of the complex in the truck. The maroon car drove away. As the driver of the truck approached the street, he shouted at Defendant, but Defendant did not respond. Officers pursued the truck, which was later found abandoned. One officer approached the Defendant, hand-cuffed him, and frisked him for weapons. The officer gave Defendant his Miranda rights and began questioning him. Shortly thereafter, the officers called an auto theft detective to help with the investigation. While waiting for the detective, the Defendant was left in handcuffs, standing by a police car for 30 minutes. The detective, who had arrived, again advised Defendant of his Miranda rights and questioned him. Defendant was arrested for theft of a means of transportation based on admissions he made during the interview. He moved to suppress, arguing that the detention was not supported by reasonable suspicion, or alternatively, that the initial detention was a de facto arrest unsupported by probable cause. The trial court denied the motion. Defendant was found guilty and sentenced to 1.75 years in prison. The court of appeals affirmed.

The Arizona Supreme Court reversed, holding that although the initial stop was valid based on reasonable suspicion, the subsequent detention became a de facto arrest unsupported by probable cause. Based on the totality of the circumstances, the Defendant's continued detention for 30 to 45 minutes was not reasonable when there was no probable cause to arrest. [The State conceded that police officers did not have probable cause to arrest Defendant until the confession.] While cautioning that there was no definitive timeline for when an initial Terry stop becomes an arrest, here Defendant posed no threat to security, and there was no need to wait for a specialized investigator to conduct the questioning. The absence of evidence that the officers acted diligently in investigating Defendant's connection to the stolen vehicle, and their ongoing use of handcuffs without a safety threat or flight risk, transformed the valid stop into a de facto arrest unsupported by probable cause. The matter was remanded for determination of the suppression issue.