

12-01: Vehicle Stop and Reasonable Suspicion of Doctor Shopping

Case: May v. State, 37 Fla. L. Weekly D122b (Fla. 4th DCA 2012)

Date: January 31, 2012

Subject: The Circumstances Under Which An Officer Can Stop A Motor Vehicle Based On A Reasonable Suspicion of Doctor Shopping

FACTS: The DEA was investigating a “cash only” pain clinic for potential pharmaceutical crimes. A local narcotics detective with 3.5 years experience observed the defendant exit the clinic. A vehicle was waiting for the defendant. She entered the rear passenger seat, and the car drove away. The detective followed the car, and ultimately observed a prescription bottle being passed from the front seat to the back. The detective stopped the vehicle because she believed she had just witnessed an illegal sharing of pills. However, the detective only saw the bottle – not the pills – and the defendant wasn’t holding anything when she left the clinic. The defendant filed a motion to suppress, arguing that the vehicle was illegally stopped.

RULING: An officer has a reasonable suspicion of illegal pill sharing when (1) the officer observes a pill bottle change hands in a vehicle, (2) an occupant of the vehicle was just observed in a pain clinic that is under investigation, and (3) the officer explains how those observations are consistent with “pill sharing” or “sponsorship.” Here, the detective met all three criteria. Therefore, the stop was valid.

DISCUSSION: The Court reiterates the principle that traffic stops are valid when supported by a reasonable suspicion of criminal activity. In this case, the Court found a reasonable suspicion of illegal pain sharing. This finding was based on a combination of factors. First, a prescription pill bottle was passed around inside a vehicle; the officer explained how this was consistent with “sharing of pills,” an illegal activity. Second, a passenger in the vehicle had just exited a cash only pain clinic, creating a good possibility that she acquired controlled substances while inside. That was especially likely in this case, because the clinic was under investigation for pharmaceutical crimes. The Court distinguishes this case from its earlier holding in Benemerito v. State, 29 So.3d 367 (Fla. 4th DCA 2010).

In Benemerito, the Court found no reasonable suspicion of a hand to hand drug deal where the officer observed a hand to hand interaction between drivers in a Walgreens parking lot, but never observed a specific item (i.e. drugs or money) change hands. Unlike Benemerito, this case involved the sharing of pills, rather than a hand to hand sale. In pill sharing cases, no money changes hands; therefore, the officer’s failure to observe money changing hands is irrelevant. The Court also found it significant that the defendant was seen at a suspicious cash only pain clinic, whereas Benemerito was seen at a reputable pharmacy.

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Officers should consult with their agency legal advisors to confirm the interpretation provided in this Update and to determine to what extent the case discussed will affect their activities.