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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of February – 2026

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People v. Adrian Delgado, 2025 IL App (1st) 241518, December 16, 2025.

THE CASE: Delgado resisted an Officer's attempt to place him in handcuffs. Did this act justify Delgado's conviction for Resisting Arrest? What was the Officer trying to do when he attempted to place Delgado in handcuffs? How did the 2023 amendment to the offense of Resisting Arrest impact this case?

FACTS: At around 2 a.m. on the morning in question, the arresting Officer was working patrol in a marked police vehicle, dressed in full uniform. While on patrol, the Officer responded to a request from another Officer for additional officers to assist in a traffic stop. When he arrived at the scene, he noticed that the other Officer had stopped a vehicle. While the other Officer performed work on his computer, the arresting Officer approached the stopped vehicle by himself. He observed four occupants, including the driver, in the vehicle. He identified defendant Delgado as the driver. As he approached the vehicle, the Officer noticed "clown masks" on the headrests. The Officer first spoke with the front passenger and asked for his identification. In complying with the request, the passenger opened the glove compartment. The Officer saw "a knotted plastic baggie containing cannabis" in the glove compartment. The Officer asked the front passenger to exit the vehicle, and he complied. He then asked the right rear passenger for identification. That passenger, even though it was 2 a.m., "had on sunglasses and a surgical mask. And from his experience, the Officer believed the passenger was trying to hide and conceal his identity. When he asked this passenger to step out of the vehicle, the passenger "became argumentative and refused to step out." The rear passenger eventually exited the vehicle. The Officer told him, based on his behavior, that he "was going to be temporarily detained," and then the Officer handcuffed him "with the front right passenger together to avoid any type of flight or them taking off running from us." They were handcuffed "hand in hand" so that each had one free hand. The Officer then "patted down" the passengers but did not find anything.

According to the Officer, the passengers were "very disrespectful" towards him, and he believed the situation was going to become "hands on." He therefore requested additional police units as he attempted to handcuff the passengers. After detaining the two passengers, the Officer spoke to Delgado. He asked him to step out of the vehicle, which he cooperated. The Officer then told Delgado to stand next to the other individuals that had been handcuffed. The Officer then tried to detain him as well by handcuffing him. According to the Officer, Delgado refused to be handcuffed to the other individuals. He described Delgado's demeanor as "aggressive, angry, disrespectful, [and] rude." As he tried to grab Delgado's wrist to handcuff him, Delgado "was pulling away" and he "stiffened his body." The Officer stated that he "had a hard time doing so until the backup arrived, [and] that's when I was able to handcuff him." His encounter with defendant was "quick," taking place "under a minute."

Delgado was subsequently charged under section 31-1(a) of the Criminal Code (720 ILCS 5/31-1(a)) with Resisting a Police Officer. The complaint alleged that Delgado "knowingly obstructed the performance of (the Officer) of an authorized act within his official capacity, being the arrest of [Delgado], knowing (the Officer) to be a peace officer engaged in the execution of his official duties, in that he pulled away and stiffened his right arm and refused to be handcuffed in an effort to defeat the arrest." When questioned concerning how Delgado's actions impeded his investigation, the Officer responded that there were four occupants in the vehicle and he could not "keep eyes on all of them. And dealing with Delgado at the time was kind of difficult "when he's trying to interfere with my performance to try to conduct a thorough investigation." He explained that he only carried two pairs of handcuffs and he "was just detaining. They were not going to be—at the time, I didn't know if they were going to be in custody, so I temporarily detained them until I conducted my investigation." Following a jury trial, Delgado was convicted as charged. This appeal followed.

ARGUMENT: On appeal, Delgado contended that the evidence at trial was insufficient to convict him of Resisting Arrest under section 31-1 of the Code. The People maintained that to sustain a conviction for resisting a peace officer pursuant to section 31-1(a), they had to prove that "defendant resisted or obstructed someone he knew was a peace officer, and that this obstruction or resistance actually impeded or hindered the officer" from conducting an authorized act. The People argued that, when viewed in the light most favorable them, the evidence at trial established beyond a reasonable doubt that Delgado committed the offense of resisting a peace officer. Delgado, however, contended that he could not be arrested for Resisting Arrest under section 31-1 unless there was an underlying offense for which he was initially subject to arrest. He argued that the People failed to prove beyond a reasonable doubt any underlying offense for which he was initially subject to arrest.

ISSUE: Was Delgado properly convicted of Resisting Arrest?

THE LAW: According to the appellate court, Section 31-1 pertains to the offense of resisting or obstructing a peace officer. [The Court also noted that this section was recently amended, and the amended provision went into effect on January 1, 2023, approximately four months *before* the offense in this case occurred. See Pub. Act 101-652.] As amended, section 31-1(a) provides that “[a] person who knowingly: (1) resists arrest, or (2) obstructs the performance by one known to the person to be a peace officer *** of any authorized act within his or her official capacity[,] commits a Class A misdemeanor.” 720 ILCS 5/31-1(a)(1)-(2). The amendment also added subsection (d) which provides that “[a] person shall not be subject to arrest for resisting arrest under this Section unless there is an underlying offense for which the person was initially subject to arrest.”

FINDINGS: Pursuant to the plain language of section 31-1(a), the appellate court concluded that there are *now* two distinct ways a person can commit the offense of resisting or obstructing a peace officer: by knowingly resisting arrest or by knowingly obstructing the performance by a peace officer of an authorized act. The legislature thus intended to separate the specified offense of resisting arrest from the broader offense of obstructing performance of an authorized act. Further, the Court noted that the misdemeanor complaint charged Delgado with resisting a peace officer under section “31-1-A” of the Code. The complaint, however, did not indicate whether he was being charged under subsection (a)(1) or (a)(2). According to the Court, it is well-established that it is the People's burden to “prove the essential elements of the charging instrument as alleged and without variance.”

Therefore, in order to review whether the People met their burden, the appellate court had to first ascertain the essential elements of the charge against Delgado. To do so, it was required to read the charging instrument “as a whole, and where a statute is cited in a count, the statute and count are to be read together.” The Court noted that the misdemeanor complaint in this case alleged that Delgado “knowingly obstructed the performance of (the Officer) of an authorized act within his official capacity, being the arrest of [Delgado,] knowing (the Officer) to be a peace officer engaged in the execution of his official duties, in that he pulled away and stiffened his right arm and refused to be handcuffed in an effort to defeat his arrest.” Although the complaint referred to Delgado's obstruction of an authorized act, the authorized act specified was the arrest of Delgado. Reading the complaint together with the provisions of section 31-1(a), the appellate court found that Delgado was charged with Resisting Arrest under subsection (a)(1) of that Section. Accordingly, for Delgado to be convicted of resisting arrest under this provision, the People must establish that he knowingly resisted arrest.

Additionally, the Court noted that the Illinois supreme court has recognized that “not every encounter between the police and a private citizen results in a seizure.” Relevant here, under the limited exception set forth in *Terry v. Ohio*, 392 U.S. 1, a police officer may detain a person even without probable cause to arrest. This exception permits an officer to briefly stop a person for temporary questioning if the “totality of the circumstances reasonably lead the officer to conclude that criminal activity may be afoot, and the subject is armed and dangerous.” The Court noted that neither party challenged the validity of the traffic stop in this case. According to the Court, a routine traffic stop is more akin to a *Terry* investigative stop than a formal arrest. Moreover, the Court acknowledged that if the Officer reasonably believed his safety was at risk during the investigative stop, it was reasonable for him to order Delgado and his passengers to exit the vehicle and search them for weapons, *which he did*. Although the Officer had handcuffed the passengers together after they stepped out of the vehicle, and attempted to place handcuffs on defendant, the Court concluded that the act of handcuffing itself did not automatically transform an investigatory stop into a de facto arrest. An officer who reasonably suspects that his or her safety is in danger may take necessary measures to neutralize any threat of physical harm.

Similarly, the Officer testified that it was 2 a.m. when he approached Delgado's vehicle and he was outnumbered four to one. He observed clown masks on the headrests. He also suspected that the rear passenger was trying to hide his identity because he wore sunglasses and a mask. When asked to exit the vehicle, the masked passenger was reluctant and “very disrespectful.” Delgado, a large man, became “aggressive, angry, disrespectful, [and] rude” after exiting the vehicle. In his testimony, another Officer referred to the handcuffing of Delgado together with his passengers as a “safety link.” The Court concluded that under Illinois law, handcuffing was permitted as a reasonable and necessary safety precaution during an investigative stop. Furthermore, the Officer never testified that he placed Delgado under arrest before he tried to handcuff him. Rather, at the time of Delgado's resistance, the Officer was merely trying to conduct an investigation pursuant to a traffic stop.

CONCLUSION: The appellate court concluded that the complaint charged Delgado with Resisting Arrest under section 31-1(a)(1) of the Code. Section 31-1(a)(1) specifically addresses the act of Resisting Arrest. Under the plain language of section 31-1(a)(1), a person commits the offense if he or she knowingly “Resists Arrest.” In this case, Delgado could not knowingly resist arrest if no evidence presented at trial supported that he was under arrest when he resisted the Officer. Since the evidence at trial failed to establish that Delgado “knowingly resist[ed] arrest” under section 31-1(a)(1), the appellate court reversed his conviction.

QUIZ QUESTIONS FOR THE MONTH OF FEBRUARY – 2026

People v. Adrian Delgado, 2025 IL App (1st) 241518, December 16, 2025.

1. Section 31-1 of the Illinois Criminal Code pertains to the offense of Resisting or Obstructing a Peace Officer.
 - a. True.
 - b. False.

2. Section 31-1 of the Criminal Code was substantively amended approximately four months prior to the conduct in this case occurring. Did the 2023 amendment to Section 31-1 govern the prosecution of Delgado in this case?
 - a. Yes.
 - b. No.

3. Contrary to the prior statute, the 2023 amendment to Section 31-1 created two alternative methods of violation these provisions. Section (a)(1) dealt with Resisting Arrest and Section (a)(2) dealt with Obstructing a Peace Officer.
 - a. True.
 - b. False.

4. Did the People in this case clearly allege and prove that Delgado violated Subsection (a)(1) of Section 31-1 by conduct that constituted the offense of Resisting Arrest?
 - a. Yes.
 - b. No.

**QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF QUIZ QUESTIONS FOR THE MONTH
OF FEBRUARY – 2026**

People v. Adrian Delgado, 2025 IL App (1st) 241518, December 16, 2025.

1. Section 31-1 of the Illinois Criminal Code pertains to the offense of resisting or obstructing a peace officer.
a. True. That is what Section 31-1 of the Code concerns.

2. Section 31-1 of the Criminal Code was substantively amended approximately four months prior to the conduct in this case occurring. Did the 2023 amendment to Section 31-1 govern the prosecution of Delgado in this case?
a. Yes. It sure did.

3. Contrary to the prior statute, the 2023 amendment to Section 31-1 created two alternative methods of violation these provisions. Section (a)(1) dealt with Resisting Arrest and Section (a)(2) dealt with Obstructing a Peace Officer.
a. True. The 2023 amendment to Section 31-1 clearly identified two separate types of conduct which would violate these provisions.

4. Did the People in this case clearly allege and prove that Delgado violated Subsection (a)(1) of Section 31-1 by conduct that constituted the offense of Resisting Arrest?
b. No. The appellate court in this case declared that the People failed to prove beyond a reasonable doubt that Delgado committed the offense of Resisting Arrest.