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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of December – 2021 - Alternative

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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

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People v. Ibrahim H. Haddad, 2021 IL App (3d) 180545, March 10, 2021.

Officers stopped Haddad's car based upon their belief that it was travelling too closely. *Legal stop?*

FACTS: Two Officers learned that the Illinois State Police were conducting an investigation of drug trafficking. A specific vehicle was suspected of being involved in the investigation. The Officers spotted the car and followed it; staying approximately 150 to 200 yards behind the suspect car for 4 to 6 minutes, or 2.5 to 3 miles. The traffic was "very light." The Officers admitted that it was their intention to observe the vehicle for any traffic infractions. As the Officers watched, they noticed that the car was "traveling approximately one car length behind the vehicle in front of it, traveling approximately 40 miles per hour with steady rain coming down." According to the Officers, "(t)he vehicle was following too closely, based on the speed, the conditions and the distance between that and the vehicle in front of it," in violation of the Illinois Vehicle Code (the Code). 625 ILCS 5/11 et seq. The Officers did not observe any other traffic infractions.

One Officer explained that he had determined that the car was travelled one car length behind the car in front of it based on his daily interactions with traffic, knowing what cars can fit in between gaps, and because the average length of a car is approximately 18 feet. In the Officer's estimation, the car travelled approximately 18 feet behind the vehicle in front of it. The Officer believed that a vehicle should have one car length between it and the vehicle in front of it for every 10 mph in optimal driving conditions. However, the Officer conceded that the Code does not prescribe an actual distance for following too closely, stating that the Code was subjective for that violation. Based on this information, the Officers then initiated a traffic stop. A subsequent search of the suspect car revealed cannabis and Haddad was indicted on various cannabis offenses.

He moved to suppress and the trial court granted his motion. In so doing, it stated the following:

"Okay. This is the Court's ruling as to pretext stops. I find the standard in *People v. Dennis Smith*. If police officers — officers are objectively doing what they are legally authorized to do, their actions are not to be questioned on the basis of any subjective intent which they have acted.

I think it's clear this is a pretext stop. He followed [defendant] for three miles. So it goes to the two cases that the State has given me, *People v. Mayberry* (phonetic). And in that case the officer testified that the car was directly behind him and was so close to him that it alarmed him. I think he had an objective standard there because he could estimate because he saw the car right in his rearview mirror.

And in *People v. Wolford* (phonetic), I think it explains on these types of stops, the [Code] has recommended — the recommendation two-second intervals and he did count the lines in that matter as reference points. And he said it was less than one-second lines and that's why he pulled him over. He had an objective standard there.

I think the police officer in this instance did not use an objective standard, he used a subjective standard. Therefore, I am going to grant the defendant's motion to suppress."

From this ruling, the People brought this appeal.

ARGUMENT: On appeal, the People argued the trial court erred by granting Haddad's motion to suppress because the Officer had probable cause, or at least a reasonable, articulable, suspicion, sufficient to justify stopping his car, thereby rendering the evidence discovered admissible. Haddad argued the disputed facts, coupled with the

appellate court's deferential standard of review, should lead the court to affirm the trial court's ruling on his motion to suppress.

THE LAW: The fourth amendment of the United States Constitution and article I, section 6, of the Illinois Constitution guarantee citizens the right to be free from unreasonable searches and seizures. Stopping a motor vehicle and detaining its passengers constitutes a seizure within the meaning of the fourth amendment. It is well established that traffic stops are more analogous to Terry stops than they are to formal arrests, thus, they are subject to the fourth amendment's reasonableness requirement and may be justified on something less than probable cause. When judging the reasonableness of a traffic stop, courts must apply an objective standard and scrutinize whether the facts available to the officer at the time of the stop would warrant a reasonable person to believe the traffic stop was appropriate. Generally, an officer is justified in stopping a vehicle and briefly detaining the driver when he or she observes the driver commit a traffic offense. Section 11-710(a) of the Code provides that "The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway." 625 ILCS 5/11-710(a). Section 11-710(a) does not prescribe a certain distance requirement and does not define what is "reasonable and prudent."

FINDINGS: Initially, the appellate court declared that the issue in this case can be narrowed down to whether the Officer had an objectively reasonable suspicion, based on the facts available to him at the time of the stop, that Haddad was following the car in front of him at a distance that was not reasonable and prudent.

According to the Court, the trial court's ruling first required the trial court to resolve whether there was a vehicle on the roadway travelling ahead of the suspect car. The trial court's findings did not question or reject the Officer's credibility regarding the presence of a vehicle ahead of the car. However, the trial court found the Officer's methodology when measuring the distance between the two vehicles was not reliable.

When ruling, the trial court found the decision in *People v. Wofford* 2012 IL App (5th) 100138, to be instructive. The appellate court agreed. It noted that in *Wofford*, the Fifth District found an officer's decision to conduct a traffic stop objectively reasonable where the officer determined that the subject vehicle was traveling at less than a one-second interval behind a camper trailer by using the dotted lines on the highway as a reference point. The officer explained in detail how he performed this dotted line test several times to determine that the subject vehicle travelled behind the camper trailer at less than a one-second interval, much less than the two-second interval recommended by the Illinois Rules of the Road.

In the instant case, the appellate court concluded that the trial court noted that the officer did not rely on an objectively reasonable means of measuring the distance between the suspect car and the other vehicle. This determination, according to the appellate court, was well supported by the trial record and should not be set aside. Here, the officer estimated the distance to be 18 feet without, for example, explaining the relationship in time and/or space measured by when the vehicle passed stationary landmarks, such as light poles or dotted lines, and the time defendant's vehicle reached the same landmarks.

CONCLUSION: The appellate court noted that "Here, the trial court made factual determinations regarding the accuracy of the officer's measurement of the distance between two vehicles moving in the same direction on the roadway. Therefore, we conclude the trial court's ruling in this appeal should not be set aside unless it was manifestly erroneous. Giving deference to the trial court's findings, the Court concluded that the trial court's ruling is not manifestly erroneous. For this reason, it affirmed the trial court's decision granting Haddad's motion to suppress.

QUIZ QUESTIONS FOR THE MONTH OF DECEMBER – 2021 - ALTERNATIVE

People v. Ibrahim H. Haddad, 2021 IL App (3d) 180545, March 10, 2021.

1. Under Illinois law, stopping a motor vehicle for a traffic violation constitutes an arrest and, therefore, must

be based upon probable cause.

- a. True.
 - b. False.
2. Does the Illinois statute that prohibits following a vehicle too closely identify a specific distance a driver must maintain between itself and the car it is following?
- a. Yes.
 - b. No.
3. In this case, the trial court concluded that the Officer, in stopping the suspect car, used an improper subject standard to determine whether the suspect was following too closely. Did the appellate court agree with this finding?
- a. Yes.
 - b. No.
4. **ILLUSTRATIVE CASE:** An officer suspected that the driver of a car might be following the semi in front of him too closely. To gauge the distance between the two vehicles, the Officer used a fix point on a guardrail across from where he was parked and a stopwatch to determine the interval between the defendant's car and the semi. According to the Officer's unrebutted testimony, the approximately 11//2 seconds interval between the defendant's vehicle and the semi did not allow for defensive driving maneuvers in the case of a hazard on the roadway. The appellate court concluded that the method used by the Officer did not support the detention of the suspect.
- a. True.
 - b. False.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF DECEMBER – 2021 -ALTERNATIVE

People v. Ibrahim H. Haddad, 2021 IL App (3d) 180545, March 10, 2021.

1. Under Illinois law, stopping a motor vehicle for a traffic violation constitutes an arrest and, therefore, must

be based upon probable cause.

b. ***False.*** The Court held: “It is well established that traffic stops are more analogous to *Terry* stops than they are to formal arrests, thus, they are subject to the fourth amendment's reasonableness requirement and may be justified on something less than probable cause. People v. Maberry, 2015 IL App (2d) 150341; People v. Close, 238 Ill. 2d 497; see Terry v. Ohio, 392 U.S. 1, (1968).

2. Does the Illinois statute that prohibits following a vehicle too closely identify a specific distance a driver must maintain between itself and the car it is following

b. ***No.*** Section 11-710(a) of the Code provides that “The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.” 625 ILCS 5/11-710(a). Section 11-710(a) does not prescribe a certain distance requirement and does not define what is “reasonable and prudent.”

3. In this case, the trial court concluded that the Officer, in stopping the suspect car, used an improper subject standard to determine whether the suspect was following too closely. Did the appellate court agree with this finding?

a. ***Yes.*** The Court held, “In the instant case, the trial court noted that the officer did not rely on an objectively reasonable means of measuring the distance between the Audi and the other vehicle. This determination is well supported by the record subject to our review and should not be set aside.”

4. **ILLUSTRATIVE CASE:** An officer suspected that the driver of a car might be following the semi in front of him too closely. To gauge the distance between the two vehicles, the Officer used a fix point on a guardrail across from where he was parked and a stopwatch to determine the interval between the defendant's car and the semi. According to the Officer's un rebutted testimony, the approximately 11//2 seconds interval between the defendant's vehicle and the semi did not allow for defensive driving maneuvers in the case of a hazard on the roadway. The appellate court concluded that the method used by the Officer did not support the detention of the suspect.

b. ***False.*** The Court in the case of People v. Kevin R. Conard, 2021 IL App (3d) 180593-U, September 23, 2021 declared: “(The Officer’s) calculation supports a reasonable belief that the defendant committed a traffic violation.