Affirmed and Opinion filed August 10, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-99-00547-CR

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ADRIAN VASQUEZ, JR., Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 232nd District Court
Harris County, Texas
Trial Court Cause No. 790,090

O P I N I O N

Appellant, Adrian Vasquez, Jr., pled guilty to possession of a controlled substance, namely cocaine, in an amount between 200 and 400 grams and was sentenced to five years imprisonment. On appeal, he argues the trial court erred in denying his motion to suppress because the evidence was seized as a result of an illegal detention. We affirm.

Houston Police Officer Hector Rene Gonzales was patrolling a hotel parking lot when he noticed a suspicious vehicle. The vehicle's registration was expired, it was backed into a space, and it was dusty. The officer learned the vehicle was reconditioned and had recently crossed the border from Mexico. He then checked with the hotel and discovered the vehicle's

owner was not registered. Officer Gonzales then arranged to have the vehicle pulled over by a marked unit when it left the parking lot. Afterwards, he approached the driver and, after fifteen to twenty minutes, the driver signed a form consenting to a search of the vehicle. The search turned up nothing, and the officers called a K-9 unit. The dog alerted the officers to three areas of the vehicle. The officers removed a panel and discovered cocaine hidden in the door. Appellant was arrested. In total, twenty kilograms of cocaine were recovered. The time between the signing of the consent form and the arrest was approximately thirty to forty minutes.

Appellant's sole point of error is the trial court erred in denying his motion to suppress because his arrest was illegal. He argues the State exceeded the permissible scope of their authority by holding him for nearly an hour based upon a traffic violation.

A police officer may stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion, supported by articulable facts, that the person detained actually is, has been, or soon will be engaged in criminal activity. *See Hernandez v. State*, 983 S.W.2d 867, 869 (Tex. App.–Austin 1998, pet. ref'd) (citing *Woods v. State*, 956 S.W.2d 33, 35 (Tex. Crim. App.1997)). The burden is on the State to demonstrate the reasonableness of the stop. *See id.* If an officer has a reasonable basis for suspecting a person has committed a traffic offense, the officer may legally initiate a traffic stop. *See McVickers v. State*, 874 S.W.2d 662, 664 (Tex. Crim. App.1993); *Garcia v. State*, 827 S.W.2d 937, 944 (Tex. Crim. App.1992); *Hernandez*, 983 S.W.2d at 870-71.

Driving an unregistered vehicle is an arrestable offense. *See* TEX. TRANSP. CODE ANN. § 502.402. (Vernon 1995); TEX. CODE CRIM. PROC. ANN. Art. 14.01(b) (Vernon 1977) (stating that a peace officer may arrest an offender for any offense committed within his view); *Texas Dept. of Public Safety v. Perez*, 905 S.W.2d 695, 700 (Tex. App.–Houston [14th Dist.] 1995, writ denied). Considering that Officer Gonzales could have arrested appellant, it was clearly within the permissible scope of his authority to briefly detain appellant for driving an

unregistered vehicle. During the course of the traffic stop, appellant voluntarily consented to the search of his vehicle.

Appellant relies on *Davis v. State,* 947 S.W.2d 240 (Tex. Crim. App. 1997) for the proposition that the officers exceeded the scope of their authority by detaining appellant. In that case, an officer had pulled over the defendant on suspicion that he was driving while intoxicated. *Id*. at 241. The police quickly determined that he was not intoxicated; however, because the defendant and a passenger had given contradictory statements, the police asked for consent to search the vehicle. *Id*. When the defendant *refused* to consent, he was told he was free to leave, but that the vehicle would be detained. A K-9 unit was called and the dog discovered marijuana in the trunk. *Id*. The Court ruled that the continued detention, once officers determined the defendant was not intoxicated, was not supported by articulable facts. *Id*. at 245. They also noted that any detention of the vehicle was a de facto detention of the defendant since the stop happened at 1:00 am, his final destination was New York, and he had no other means of transportation.

Here, however, appellant consented to the search of the vehicle. It is axiomatic that any search will take time to complete. The fact that this search lasted approximately thirty minutes does not make it impermissible. Appellant never withdrew his consent or in any way communicated to the officers that he wished to leave the scene. Appellant's point of error is overruled, and the judgment of the trial court is affirmed.

/s/ J. Harvey Hudson
Justice

Judgment rendered and Opinion filed August 10, 2000.
Panel consists of Chief Justice Murphy and Justices Hudson and Wittig.
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