



DPS Legal Review

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LANDMARK HIGH SPEED CHASE DECISION

Last month, in Scott v. Harris,¹ the United States Supreme Court rendered a decision that will impact future analysis of Fourth Amendment cases alleging excessive use of force in the context of high speed chases. The facts and holding in the case are as follows:

In March of 2001, a Coweta County deputy clocked Victor Harris (hereafter "Harris") traveling at 73 miles per hour in a 55-mile-per-hour speed zone. The deputy activated his blue lights to indicate that Harris should pull over. Instead, Harris sped away. This prompted a high speed chase down mostly two-lane roads at speeds exceeding 85 miles per hour. The deputy radioed dispatch to report the pursuit and broadcast the vehicle's license plate number.

Another deputy, Timothy Scott (hereafter "Scott"), heard the radio communication. He, along with other officers, joined the pursuit. In the midst of the chase, Harris pulled into the parking lot of a shopping center and was nearly boxed in by police vehicles. Harris collided with Scott's police car as he continued to flee. Harris exited the parking lot and sped off down another two-lane highway. At that point, since his vehicle was already damaged, Scott took the lead. Six minutes and ten miles after the chase had begun, Scott decided to attempt to terminate the chase by employing a "Precision Intervention Technique" (hereafter "PIT") maneuver (which causes a fleeing vehicle to spin to a stop).

Scott secured permission from his supervisor to use the maneuver. However, instead of applying the PIT, Scott terminated the chase by applying his push bumper to the rear of the vehicle. This caused Harris to lose control of the vehicle, which left the roadway, ran down an embankment, overturned, and crashed. Harris sustained serious injuries and became a

quadriplegic. He filed suit under 42 U.S.C. § 1983 alleging, in part, that the deputy's excessive use of force resulted in an unreasonable seizure under the Fourth Amendment. Deputy Scott's motion for summary judgment, based upon qualified immunity, was denied. He appealed.

HOLDING: The Court held that officers *may take actions that place a fleeing motorist at risk of serious injury or death in order to stop that motorist from endangering the lives of innocent bystanders*. At the outset, the Court considered whether the deputy's actions were constitutional. The videotape of the incident played a major role in the decision.

The Court held that the video clearly contradicted Harris's version of events which the lower court adopted. "Far from being the cautious and controlled driver the lower court depicts, what we see on the video more closely resembles a Hollywood-style car chase of the most frightening sort, placing police officers and innocent bystanders alike at great risk of serious injury."² Also significant for future decisions is the Court's holding that "When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should *not* adopt that version of the facts for purposes of ruling on a motion for summary judgment."³

Viewing the facts in the light depicted by the videotape, the Court held that Deputy Scott's actions, under Fourth Amendment analysis, were reasonable. Harris intentionally placed himself and the public in danger by engaging in an unlawful and reckless, high-speed flight. Flight by means of a speeding automobile poses the threat of serious physical harm. Thus, officers do not have to allow fleeing suspects, who pose a substantial and immediate risk of serious physical injury to others, to get away.

¹ *Scott v. Harris*, 550 U.S. ___ (2007)

² *Id.* at 7.

³ *Id.*

INQUIRING MINDS WANT TO KNOW:

Q: Can troopers randomly (without justification) check license tags?

A: Less than a year ago the Court expressed concern about the practice of police officers randomly, and apparently without any justification, checking license tags of lawfully driving motorists through the National Crime Information Center. The Court noted that it was unaware of anything in our law that would justify that practice. State v. Dixon, 280 Ga.App. 260, 633 S.E.2d 636 (2006).

The Fourth Amendment applies to seizures of the person, including brief investigatory stops such as stopping a car. An investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity. That determination can only be made after considering the totality of the circumstances or the whole picture. Based upon that whole picture, the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity. Investigative stops of vehicles based solely on a hunch are invalid. The state bears the burden of presenting evidence that demonstrates a reasonable suspicion of criminal activity. Id.

To reiterate, the Court has repeatedly held that the critical issue to test the validity of a traffic stop is whether the officer had 'a particularized and objective basis for suspecting the particular person stopped of criminal activity.' For example, the Court considered whether stopping a vehicle with a drive-out tag because such cars might be stolen was authorized under our law, and concluded that it was not. Extending the analysis in that case, randomly running a tag for no apparent reason to ascertain whether the driver has some kind of pending violation is not authorized. In addition to case authority, Georgia State Patrol Policy 11.03.1A provides that "A member shall have a legitimate basis to affect a traffic stop (e.g. "probable cause, articulable suspicion, or other public safety interests").

Q: What are the requirements and procedures for the revised renewal decals on Georgia license plates?

A: Renewal decals on Georgia license plates are now printed showing the license plate number, month and year of expiration and county name. Decals that have a 2007 expiration date have a magenta background and

black printing. Decals with 2008 expiration will have a white background and black printing. [NOTE: This change does not apply to dealer, distributor, manufacturer and transporter license plates or International Registration Plan license plates.]

If someone has an older license plate that has an indentation for a month decal, they *should not* be given a citation *if* they have a renewal decal that contains all of the following elements: 1) the month and year, 2) the tag number, and 3) the county of issuance. For further details regarding the changes and to see an example of the latest renewal decal highlight the link below and right click "open hyperlink": http://gcicweb.gbi.state.ga.us/cjis/ori/Law%20Enforcement%20Notification%209-29-06%20_2_.pdf

ALS REMINDERS

⚙ When you submit a document to the Office of State Administrative Hearings (OSAH), i.e. a Motion for Continuance, etc., OSAH rules mandate that the document be signed by the Trooper making the request. **Do not** sign any ALS documents submitted to OSAH on behalf of another Trooper. The document **must** be signed by the Trooper making the request.

⚙ A defendant **must** be under arrest for DUI **before** the implied consent card is read **unless** the case involves a wreck with a serious injury or fatality. According to O.C.G.A. §40-5-55(c) "a traffic accident resulting in serious injuries or fatalities means any motor vehicle accident in which a person was killed or in which one or more persons suffered a fractured bone, severe burns, disfigurement, dismemberment, partial or total loss of sight or hearing, or loss of consciousness." Hough v. State, and State v. Handschuh, 279 Ga. 711 (2005).

PROVERBIAL WISDOM WORKS

"Nearly all men can stand adversity, but if you want to test a man's character, give him power."

Abraham Lincoln

Published with the approval of Colonel Bill Hitchens. Legal Services: Melissa Rodgers, Director, Lee O'Brien and Jacqueline Bunn, Deputy Directors, and Dee Brophy, ALS Attorney. Send questions/comments to jbunn@gsp.net.