

U.S. v. Miller, Fourth Circuit Court of Appeals – decided on November 29, 2022

Defendant appeals her conviction for Possession of a Firearm by a Convicted Felon on Fourth Amendment grounds.

Facts:

The defendant, Teresa Miller, was traveling in the backseat of a vehicle operated by Jessica Phillips when the vehicle was stopped by Officer Helms for a traffic violation. The officer's camera captured the interaction. During the interaction, the officer became suspicious because Phillips, the driver, was shaking and tapping on the car door. A backup officer arrived as the officer printed the driver's warning ticket. The officer approached the vehicle, asked the driver to exit the vehicle, and told her he would be leading his canine around the vehicle to sniff for illegal drugs. After the canine indicated that there were drugs in the vehicle, officers performed a full search. The search revealed two firearms in Miller's backpack. The backseat passenger, Teresa Miller (a felon), was charged with Possession of a Firearm by a Convicted Felon.

The defendant (Miller) moved to suppress the search. The district court held that the officer had reasonable suspicion to extend the traffic stop because the defendant was (1) slow to pull over, (2) excessively nervous, and (3) traveling on a known drug corridor. The district court gave great weight to the officer's experience in its analysis. The district court convicted the defendant for Possession of a Firearm by a Convicted Felon.

Held:

Reversed. The Court held that the officer lacked a reasonable, articulable factual basis for extending the traffic stop to conduct the dog sniff. The Court expressed concern that the factors in this case did not "serve to eliminate a substantial portion of innocent travelers." Rather than giving deference to the trial court's factual findings, the Court reviewed the officer's video and drew its own conclusions. First, the Court found that the driver was not unduly slow to pull over and contended that the driver stopped within a reasonable amount of time. Second, the Court found that the body camera footage showed that the driver was not excessively nervous during the traffic stop and specifically concluded that the district court clearly erred by finding that the driver was shaking during the traffic stop.

Regarding the driver "tapping" her fingers, the Court found that tapping one's fingers may "just as likely be a sign of annoyance, impatience, or even boredom—any of which may be expected when a person is stopped by a police officer and is awaiting the results of a license check. By itself, tapping one's fingers is a very weak indicator of nervousness." Lastly, the Court wrote that traveling on a known drug corridor is not itself probative of criminal behavior and does not serve to eliminate a substantial portion of innocent travelers.

Bottom Line:

When you extend a traffic stop, the reasons you do so must be articulated to show a reasonable suspicion of criminal activity. The Court found that the reasons the officer extended the stop (slow to pull over, excessively nervous, and traveling on a known

drug corridor) could apply to many innocent people. In addition, the reasons the officer stated in court differed from what the Court saw on his body camera footage. The reasons must be specific, but not embellished, to identify possible criminal behavior.