

WISCONSIN SUPREME COURT
January 16, 2019
9:45 a.m.

2017AP2006-CR

State v. John Patrick Wright

This is a review of an opinion filed by the Wisconsin Court of Appeals, District I (headquartered in Milwaukee), that affirmed a Milwaukee Circuit Court decision, Judge Hannah C. Dugan, presiding.

The State has asked the Court to review a Court of Appeals’ decision affirming a circuit court order suppressing evidence of a loaded handgun found in the glove box of John Patrick Wright’s car, for which the State charged him with one count of carrying a concealed weapon. The State claims the Court of Appeals’ decision “plainly conflicts” with the Wisconsin Supreme Court’s decision in State v. Floyd, 2017 WI 78, 377 Wis. 2d 394, 898 N.W.2d 560.

Late one evening in June 2016, two officers pulled Wright over for a burnt-out headlight. One officer approached Wright’s car and spoke to him through the driver’s side window. According to the officer, the officer identified himself, stated the reason for the stop, and asked Wright for his driver’s license, which Wright provided. The officer then asked Wright if he was a concealed carry weapon (CCW) permit holder, and if he had any weapons in the vehicle. Wright told the officer that he had recently taken the CCW permit class, and that he had a firearm in the vehicle. Police found a loaded gun in the glove compartment. The officer ran a CCW check which showed that Wright did not have a CCW permit. Wright was arrested for carrying a concealed weapon without a license.

Wright filed a motion to suppress the handgun as evidence. At the suppression hearing, Wright testified that he had taken a concealed carry class just four days before the traffic stop; that he gave the officer his certificate of completion from the class; that he had purchased the gun in question at a gun store two days prior; and that he had picked up the gun from the gun store on the day he was stopped by police.

The circuit court granted Wright’s suppression motion. The court ruled that the stop itself was “fine” based on the defective headlight, but that the subsequent search did not follow the principles under Rodriguez v. U.S., 135 S. Ct. 1609 (2015), which prohibits the unconstitutional extension of a traffic stop. The circuit court noted that the police lacked reasonable suspicion to ask Wright about whether he held a CCW license and whether there was a concealed firearm in the vehicle, and thus the officer’s questioning violated Wright’s Fourth Amendment rights. And, the court reasoned, Wright was unable to leave the traffic stop and not answer the officer’s questions.

The State appealed, arguing that, in Floyd, this court held that because officer safety is an integral part of every traffic stop’s mission, officers may take negligibly burdensome precautions in order to stay safe. It argued that under Floyd, the officer’s questions about Wright’s concealed carry status—asked at the beginning of the traffic stop—must be viewed as permissible questions to ensure the safety of the officer, not an unlawful prolongation of the stop. Wright disagreed, arguing that Floyd was distinguishable for a variety of reasons, including that Floyd involved a consensual pat-

down search, and that the questions the officer asked Floyd were more closely connected to officer safety than the officer's questions to Wright.

The Court of Appeals sided with Wright, citing Rodriguez and holding that the authority of the officer's seizure ended when he reasonably could have issued a citation for Wright's traffic violation. The weapons-related questions, the Court of Appeals said, were unrelated to the traffic stop and were asked with no articulated reasoning that they were for the officer's safety. Thus, they were "impermissible questions," asked "while Wright was clearly not free to leave," and the questions "impermissibly expanded the scope of Wright's traffic stop."

The following issue is presented for review:

Does asking a lawfully stopped motorist as to whether he is carrying any weapons, in the absence of reasonable suspicion, unlawfully extend a routine traffic stop?

