

U.S. v. McCraney

674 F.3d 614

C.A.6 (Ohio),2012.

March 21, 2012

Officer turned to follow vehicle that failed to dim their headlights as they had met the patrol car. As he followed he observed both the passenger and the driver “lean over toward the floor.” The officer continued to follow without initiating his blue lights. The vehicle pulled over on its own, and the officer drove past so as not to stop in the road. The officer pulled over in a parking lot and the defendant followed pulling in behind. The officer positioned his car to face the front of the suspects and spotlighted the passenger. A second patrol car pulled in behind and the suspects and also claimed to see them reach toward the floor of the vehicle. The defendants denied they reached for the floor in either instance. It would later be determined that both had suspended license. The officer testified he would have let the passenger drive them away if his license was not revoked. The officer frisked both and searched the passenger compartment of the vehicle finding a handgun. They were both arrested.

The court held that while the stop was based on probable cause for failing to dim the headlights while approaching traffic, the frisk and vehicle search were not supported by reasonable suspicion of a weapon. The court reasoned that if the officer really suspected the suspects had a weapon, (which they did) the officer would not have testified that he was prepared to let them go without a frisk or search.

The implication here is that if the officer had conducted the frisk of the persons and car immediately after making the stop the outcome might be different. The fact that the officer testified he was prepared to let them leave after seeing the “furtive gestures” made the court suspect that the officer did not really reasonably suspect a weapon.