Bronx Battleground: Unpacking Fourth Amendment Tensions in US v. Hagood

Description

The Second Circuit Court of Appeals, in the case of *United States v. Hagood*, recently explored the delicate balance between law enforcement prerogatives and Fourth Amendment protections. Taking place **on** the streets of the Bronx, New York, the defendant, Hagood, was arrested and charged with possession of a firearm after **he had previously been** convicted of a felony. The defendant moved to suppress the evidence of the handgun, discovered through the police officer's stop and frisk of his **person**.

Summary

In the early morning hours of October 14, 2020, two NYPD officers were on routine patrol in the South Bronx, observing a NYC Housing Authority complex, an area notorious for high-crime rates, gang violence, robberies, and shootings.

Both officers having situational awareness given that they have been in this professional field for both eight and four years, Hagood **was** wearing a blue sweatshirt, with a fanny pack strapped over his shoulder and across his chest. Although both officers had seen other people wear fanny packs across their chest, Migliaccio thought Hagood was wearing his fanny pack "in a manner that was not consistent with everyday wear of it."

While patrolling Webster Avenue, the officers' attention was drawn to an individual exhibiting suspicious behavior. Given their combined experience in the field, amounting to eight and four years respectively, the officers were adept at recognizing nuances in individual behaviors. At that moment, they observed Hagood wearing a blue sweatshirt, with a fanny pack slung crossbody-style over his shoulder and chest. Officer Migliaccio perceived that Hagood's manner of wearing it seemed somewhat unconventional compared to the usual way it is worn by others.

Officer Migliaccio and Officer Rios noticed Hagood looking extremely nervous, enough to justify a Terry stop. With backup from two other officers, they approached Hagood from different directions. The officer that reached him first felt Hagood was about to flee, so they quickly handcuffed him. A search revealed a loaded 9-mm pistol in Hagood's fanny pack, leading to his arrest and later indictment for illegal firearm possession.

Upon the district court's denial of Hagood's motion to suppress the firearm, Hagood appealed to the Second Circuit, seeking review of the decision by the lower court. On appeal, the defendant argued that the stop violated his Fourth Amendment rights because the officers lacked reasonable suspicion that he was engaged in criminal activity. The Second Circuit affirmed the decision of the district court, finding that the officers **had** established adequate reasonable suspicion.

The reasonable suspicion analysis in this case was central to the court's outcome. Reasonable suspicion serves as a benchmark for assessing the actions of law enforcement, which is more than a mere hunch but less than probable cause. Officers should rely on specific, observable facts to justify a stop such as someone's nervous or evasive behavior. Courts evaluate these factors in their totality,

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akin to how an experienced, reasonable officer would assess a situation. If a court finds that a Fourth Amendment violation has occurred, the “exclusionary rule” could be invoked, resulting in the evidence obtained during the stop being excluded from trial.

Analysis

The Second Circuit affirmed the district court’s decision denying the Defendant’s motion to suppress the handgun obtained during the Terry stop.

Relying on its assessment of the totality of the circumstances, the court found that the arresting officers had sufficient reasonable suspicion to justify the stop. The court relied on various factors to form the basis of its decision—citing the officer’s observations of the fanny pack appearing heavy and resembling the shape of a firearm, and the Defendant’s unusual manner of wearing the fanny pack secured tightly to his upper chest.

The court gave weight to the defendant’s behavior when encountering the police by noting his evident nervous appearance and identified the situational context of a high-crime area during late hours as further contributing to its finding of sufficient reasonable suspicion.

Key Takeaways

As we saw in this case, it is crucial for officers to remember – while individual observations might fall short of reasonable suspicion in isolation, it’s the interplay of various elements that often justifies a Terry stop.

The Second Circuit demonstrated its commitment to this concept when it upheld the denial of Hagood’s motion to suppress. The court zeroed in on the collective impact of Hagood’s unusual fanny pack positioning, his visible nervousness, and the dangerous character of the location and timing of the stop, to solidify the finding of reasonable suspicion as justification for the stop.

For our officers, the takeaway is clear: anchor your Terry stops in concrete, articulable facts and use your training and experience to evaluate the totality of the situation. That way, your actions remain within the bounds of the Fourth Amendment and are more likely to hold up in court.

***US v. Hagood*, No. 20-588 (2d Cir. 2023)**

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