

1999

State of Utah v. Eric Samuel Taylor : Reply Brief

Utah Court of Appeals

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DOCKET NO. 990753CA

IN THE UTAH COURT OF APPEALS

STATE OF UTAH,)	
Plaintiff/Appellee,)	
)	
v.)	Case # 990753CA
)	Priority # 2
ERIC SAMUEL TAYLOR,)	
Defendant/Appellant.)	
)	

REPLY BRIEF OF APPELLANT

Appeal from the decision of the Honorable Judge Lyle Anderson, Seventh Judicial District Court, Grand County.

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Utah Court of Appeals

FEB 25 2000

Julia D'Alesandro
Clerk of the Court

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IN THE UTAH COURT OF APPEALS

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REPLY BRIEF OF APPELLANT

ARGUMENT

I. **EVEN AFTER THE RETURN OF TAYLOR'S DOCUMENTS, HE CONTINUED TO BE SEIZED FOR PURPOSES OF THE FOURTH AMENDMENT.**

As the State recognizes in their Appellee Brief, in the context of a traffic stop, "[a] person is seized under the Fourth Amendment when, considering the totality of the circumstances, the police conduct would have communicated to a reasonable person that the person was not free to decline the officer's requests or otherwise terminate the encounter and go about his or her business." State v. Higgins, 884 P.2d 1242, 1244 (Utah 1994). Furthermore, for the seizure to end, it must be clear to the seized person, either from the words of an officer or from the clear import of the circumstances, that the person is at liberty to go about his or her business. **Id.**

Even the return of a detained driver's documents does not render any subsequent exchange consensual, "if the driver has cause to believe that he or she is not free to leave." United States v. Shareef, 100 F.3d 1491, 1501 (10th Cir. 1996).

Here, given the totality of the circumstances, Taylor was not free to go. Even though his documents were returned to him, he continued to be questioned by Officer Salas. These questions were related to the questioning begun earlier. It would not have been reasonable for Taylor to simply stop talking with Officer Salas and drive away at this point. Officer Salas never informed Taylor that he was free to go, nor did he walk away, indicating that Taylor could leave. There was nothing in Officer Salas' words or actions that would make it "clear to the seized person [Taylor]" that he was free to go about his business. Rather, Officer Salas continued to question Taylor when Taylor should have been allowed to leave.

II. TAYLOR'S CONSENT TO SEARCH WAS GIVEN DURING AN ILLEGAL DETENTION, THUS THE EVIDENCE SEIZED AS A PRODUCT OF THIS CONSENT TO SEARCH SHOULD HAVE BEEN SUPPRESSED.

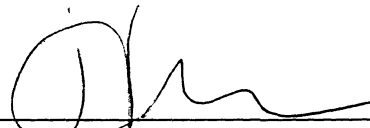
After Officer Salas returned Taylor's documents, Taylor should have been allowed to leave "without being subjected to further delay by police for additional questioning." State v. Lopez, 797 P.2d 431, 435 (Utah App. 1990). Because Taylor was delayed for additional questioning, he was illegally detained.

It was during this illegal detention that Taylor gave his consent to search his vehicle. Thus, all evidence resulting from this search should have been suppressed.

CONCLUSION

Based on the foregoing and that contained in Appellant's opening brief, Appellant respectfully requests that this Court reverse the Trial Court's ruling denying the Motion to Suppress.

RESPECTFULLY SUBMITTED THIS 25th day of February, 2000.

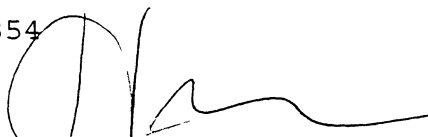


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CERTIFICATE OF SERVICE

I hereby certify that on this the 25th day of February, 2000, I caused to be served two true and correct copies of the foregoing Appellant's Reply Brief by first-class postage pre-paid mail to the following:

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