

Judgment rendered September 8, 2005.  
Application for rehearing may be filed  
within the delay allowed by Art. 922,  
La. C. Cr. P.

No. 39,820-KA

COURT OF APPEAL  
SECOND CIRCUIT  
STATE OF LOUISIANA

\* \* \* \* \*

STATE OF LOUISIANA

Appellee

versus

ROBERT PAUL GARRISON

Appellant

\* \* \* \* \*

Appealed from the  
Third Judicial District Court for the  
Parish of Lincoln, Louisiana  
Trial Court No. 50776

Honorable Jay Bowen McCallum, Judge

\* \* \* \* \*

GOFF and GOFF  
By: Addison K. Goff, IV

Counsel for  
Appellant

ROBERT W. LEVY  
District Attorney

Counsel for  
Appellee

LAURIE L. WHITTEN  
Assistant District Attorney

\* \* \* \* \*

Before BROWN, STEWART and CARAWAY, JJ.

STEWART, J., dissents with written reasons.

**BROWN, C.J.,**

Robert Paul Garrison pled guilty to DWI Third Offense reserving his right to appeal the rejection of his motion to suppress evidence. *State v. Crosby*, 338 So. 2d 584 (La. 1976).<sup>1</sup>

**Facts**

At 11:00 p.m. on the evening of June 1, 2003, Kenneth Sasser, a University Police Officer at Louisiana Tech in Ruston, was on patrol on campus on Thornton Street in a marked university police cruiser. Thornton Street runs through the Louisiana Tech campus and continues south off campus for approximately one and a half blocks to West California Avenue. Approximately one block after Thornton Street leaves the boundary of the Tech campus, it intersects with Carey Avenue. Louisiana Tech has an off-site parking lot on Carey Avenue near its intersection with Thornton. West California Avenue is less than a half block from the intersection of Carey Avenue and Thornton Street.

Officer Sasser left the campus driving down Thornton to West California, where he turned around and headed back to the campus. It was then that he heard a disturbance coming from the Louisiana Tech parking lot on Carey Avenue. He described the sound as tires squealing.

As he passed Carey Avenue, Officer Sasser saw a tan pickup truck traveling on Carey approaching the intersection with Thornton Street. The truck's right blinker was on, signaling a right turn onto Thornton in the direction of West California Avenue. Officer Sasser turned around and tried

---

<sup>1</sup>Defendant pled guilty without an admission of guilt as provided in *North Carolina v. Afford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed 162 (1970), and was sentenced to three years at hard labor, with all but 30 days suspended, and was placed on three years supervised probation.

to get the driver's attention. Officer Sasser did not know whether a crime had been committed. He felt that someone was just doing something stupid and that he needed to tell them to be careful. Officer Sasser felt that the driver may not have seen or heard him, since both of the trucks' windows were rolled up. Officer Sasser activated his emergency lights, and the truck, with defendant driving and the only occupant, pulled into a parking lot.

Officer Sasser asked Garrison whether he was the one who had squealed his tires. Defendant told him no and said that it was a friend who had already left. Defendant further stated that he was on the way to Griff's to eat. Officer Sasser smelled an odor of alcohol.

Officer Sasser called his supervisor, Randy Pennington. The two officers conducted field sobriety tests to determine whether Garrison was able to drive. Officer Sasser conducted a horizontal gaze nystagmus test on the defendant and determined that he had probable cause to arrest defendant for DWI. Garrison was placed under arrest and taken to the Lincoln Parish Detention Center for a breath test. He refused to take the breath test, and he was booked with DWI Fourth Offense.

Garrison was later charged by bill of information with DWI Third Offense. He initially pled not guilty, then filed motions to quash and suppress. Defendant's motion to quash asserted defects in the prior DWI convictions. The issues asserted at the hearing were that Officer Sasser had no jurisdiction off campus and even if he did, he did not have a reasonable basis to stop defendant.<sup>2</sup>

---

<sup>2</sup>The motion to suppress is not in the record, but the record shows defendant filed a memorandum in support of the motion to suppress.

At the hearing on the motions, Officers Pennington and Sasser testified. The trial court denied the motions. Defendant withdrew his guilty plea and entered a plea of guilty to the charge of DWI Third Offense, reserving his right to appeal the trial court's ruling on his motion to suppress.

### **Discussion**

#### **Jurisdiction of University Police**

Due to the increase of on-campus crime, including incidents of serious crime, university police have evolved from watchmen to professionals. The legislature has provided that "no person shall be commissioned as a college or university police officer unless prior to such commissioning the person has, as a minimum requirement, completed and graduated from the six-weeks program of the Basic Law Enforcement Training Academy of Louisiana State University." La. R.S. 17:1805 C. Without the ability to patrol, stop and frisk, and arrest, university officers cannot do what is demanded of them, which is to enhance security throughout the area where students spend their time.

Generally campus police have authority on campus. This jurisdiction is based on property ownership. Louisiana has extended to university police statewide or off campus authority when on official business, such as, engaging in intelligence gathering, investigating a crime committed on campus, when transporting prisoners, when transporting money, securities, or valuables for the institution, while providing security for visiting

dignitaries and if requested by the parish or city chief law enforcement officer.<sup>3</sup> La. R.S. 17:1805 D.

The legislature has specifically provided that college and university police officers have “the power of arrest when discharging their duties on their respective campuses and on all streets, roads, and rights-of-way to the extent they are within or contiguous to the perimeter of such campuses.”

La. R.S. 17:1805 A(3).

Thornton Street runs through the Louisiana Tech campus. Approximately one block after Thornton Street leaves the boundary of the Tech campus, it intersects with Carey Avenue. Louisiana Tech has a parking lot on Carey Avenue. West California Avenue is less than a half block from the intersection of Carey Avenue and Thornton Street. West California Avenue is also U.S. Highway 80.

In this case, the campus officer drove one and a half blocks off campus on Thornton Street, turned around, and was heading back to the campus when he heard a disturbance originating from the Louisiana Tech parking lot on Carey Avenue. We agree with the trial court that this short distance between the campus boundary and an off-site campus parking lot qualifies as being contiguous to the perimeter of the parking lot as well as the main campus. To suggest that a campus officer cannot drive one block

---

<sup>3</sup>The statute also requires authorization from the chief administrative officer of the university.

off campus to another site owned by the university and used for parking would be contrary to the objective of enhancing security.<sup>4</sup>

### The Stop

The law permits police to seek the voluntary cooperation of the public in the investigation of a possible crime. An officer does not violate the prohibition against unlawful seizures by requesting that an individual give information or cooperation in the investigation or prevention of a crime. Such voluntary inquiries are vital in police investigatory work. In *Illinois v. Lidster*, 540 U.S. 419, 426, 124 S. Ct. 885, 890, 157 L. Ed. 2d 843 (2004), the U.S. Supreme Court stated, “[I]t would seem anomalous were the law (1) ordinarily to allow police freely to seek the voluntary cooperation of pedestrians but (2) ordinarily to forbid police to seek similar voluntary cooperation from motorists.”

In this case the officer’s initial action in getting defendant to stop was the only means available to get defendant’s attention long enough to request information. The officer had actually passed Carey Avenue going back to the campus when he heard a disturbance originating from the Tech parking lot and turned around to investigate and saw defendant. He stopped defendant to ask for information. It was not until the officer noted sufficient indicia of inebriation that he had a reasonable suspicion and probable cause

---

<sup>4</sup>In brief, defendant states that Officer Sasser “was not legally commissioned under the statute, inasmuch as he never put up the bond required . . .” Officer Sasser testified that he was a commissioned university officer and that he did not know if Tech put up the required bond. Thus, we find the record supports that Officer Sasser is a commissioned law officer.

to believe that defendant was a danger as he was driving under the influence.

This was not a checkpoint set up to look for evidence of drunk driving or any other crime, as in *Indianapolis v. Edmond*, 531 U.S. 32, 121 S. Ct. 447, 148 L. Ed. 2d 333 (2000). In discussing *Edmond*, the Supreme Court in *Lidster* stated:

Neither do we believe, *Edmond* aside, that the Fourth Amendment would have us apply an *Edmond*-type rule of automatic unconstitutionality to brief, information-seeking highway stops of the kind now before us. For one thing, the fact that such stops normally lack individualized suspicion cannot by itself determine the constitutional outcome. As in *Edmond*, the stop here at issue involves a motorist. The Fourth Amendment does not treat a motorist's car as his castle. See, e.g., *New York v. Class*, 475 U.S. 106, 112-113, 106 S. Ct. 960, 89 L. Ed. 2d 81 (1986); *United States v. Martinez-Fuerte*, 428 U.S. 543, 561, 96 S. Ct. 3074, 49 L. Ed. 2d 116 (1976). And special law enforcement concerns will sometimes justify highway stops without individualized suspicion. See *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444, 110 S. Ct. 2481, 110 L. Ed. 2d 412 (1990) (sobriety checkpoint); *Martinez-Fuerte*, *supra* (Border Patrol checkpoint). Moreover, unlike *Edmond*, the context here (seeking information from the public) is one in which, by definition, the concept of individualized suspicion has little role to play. Like certain other forms of police activity, say, crowd control or public safety, an information-seeking stop is not the kind of event that involves suspicion, or lack of suspicion, of the relevant individual.

For another thing, information-seeking highway stops are less likely to provoke anxiety or to prove intrusive. The stops are likely brief. The police are not likely to ask questions designed to elicit self-incriminating information. And citizens will often react positively when police simply ask for their help as “responsible citizen[s]” to “give whatever information they may have to aid in law enforcement.” *Miranda v. Arizona*, 384 U.S. 436, 477-478, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

*Lidster*, 540 U.S. at 424, 124 S. Ct. at 889.

In considering the reasonableness of the stop at issue in this case, we note again that this was not a checkpoint stop. Rather, at 11:00 o'clock at night, the officer heard a disturbance of public concern. The officer observed one vehicle leaving the area and stopped that vehicle to ask the occupant and driver what he may have seen or heard. The officer had no intent to arrest or even ticket defendant. There was a public concern, and the intrusion was minimal. There was no discriminatory action.

### **Conclusion**

The conviction and sentence are affirmed.

STEWART, J., dissenting,

The majority goes through great lengths to reach a conclusion that is clearly at odds with the facts and evidence presented by the instant case. Therefore, I am compelled to respectfully dissent. I fail to understand how the majority finds *Indianapolis v. Edmond*, 531 U.S. 32, 121 S.Ct. 447, 148 L. Ed. 2d 333 (2000) applicable to this case. *Edmond* involved a class action by motorists who alleged that drug interdiction checkpoints violated their Fourth Amendment protection against unreasonable searches and seizures. The *Edmond* court held that the checkpoints were illegal because their purpose was indistinguishable from a general interest in crime control and thus were distinct from other court upheld checkpoints such as those whose goal was to discourage illegal aliens (*see U.S. v. Martinez-Fuerte*, U.S. 543, 96 S.Ct. 3074, 49 L. Ed. 2d 1116) or removing drunk drivers from the road (*Michigan Dept. Of State Police v. Stitz*, 496 U.S. 444, 110 S.Ct. 2481, 110 L. Ed. 2d 412). This matter does not involve checkpoints by highway patrolman or city police officers. It involves a campus police officer that clearly exceeded his authority and illegally detained a citizen without any reasonable suspicion of crime in contravention of his Fourth Amendment rights.

The majority's conclusion that Officer Sasser was justified in making an investigatory stop because of suspicion of crime flies in the face of Officer Sasser's own testimony wherein he stated that *he did not suspect* that a crime had taken place, but rather that someone was acting silly. While silliness might be a sign of immaturity if it is acted on in an improper

context, it certainly is not illegal. Moreover, silliness does not divest one of constitutional protections against illegal search and seizure. The majority seems to ignore the fact that Officer Sasser is a *campus* police officer whose primary area of responsibility is the Louisiana Tech campus and areas immediately contiguous thereto. This is not an instance of a crime being committed on Louisiana Tech property that was being investigated in the city, nor was this stop necessary for any “intelligence gathering” necessary for the discharge of Officer Sasser’s duties. In fact, Officer Sasser was not seeking information, but was going to issue a warning to the person he suspected of squealing tires. This is not a “disturbance of public concern” as described the majority any more than a car backfiring or a horn honking.

The majority recognizes the increase of crime near college campuses while ignoring the common nature of parking lot incidents such as this one wherein a young adult or adolescent is goofing off and does something like this while showing off for friends. It is constitutionally insufficient to justify a investigatory stop by a campus police officer, in an area not contiguous to the campus that employs him, for the purpose of illegally detaining a person not suspected of criminal activity under the guise of protecting the community from general incidents of crime. The *Edmond* court recognized that general incidence of crime in an area alone is constitutionally insufficient to justify an investigatory stop of this nature.

A review of the salient facts in the record reflects that Officer Sasser merely heard some tires squealing in the vicinity of the Louisiana Tech campus. He did not see the vehicle that made the noise with the tires, nor

did he know of its location. He further admitted that he did not suspect that any criminal activity was taking place.

Further, Officer Sasser exceeded his authority as a campus police officer. From the time he heard the tires squealing until the time he approached and detained the defendant, he was not on university property, nor had he traversed any street contiguous with the perimeter of any university property. Thus, I believe that the majority erred in affirming the trial court.