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Lewis & Clark Law School  
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### **Case Study of *State of Oregon v. Reigner et al*, 212 P.3d 1269**

Next class the case study is due. Please print out a copy for me. Remember a short, OR case within the past 5 yr from criminal, juvenile, intentional torts, free speech, religion or due process. Please use the headings from the example I gave you: short facts and questions as a handout for students,

#### **Brief Facts**

Deputies Kelly and Swanson received a report that minors were drinking alcohol at a bonfire on the beach. Kelly and Swanson drove to the location in a marked police vehicle. When Kelly approached the fire, she saw a mixed age group, some of whom held alcoholic beverages. Kelly believed some of the people possessing alcoholic beverages were minors.

When Kelly approached the fire, Reigner, Klug and Johnson (“the defendants”), who were not holding alcoholic beverages, walked away. Kelly ordered the defendants to return, and attempted to get their identifying information. The defendants initially claimed not to have ID, then gave Kelly false ID; at some point Kelly eventually obtained correct information. Kelly arrested the defendants on charges of providing false information to a police officer, and possession of liquor by a minor. At pretrial, the defendants made a motion to suppress all evidence from Kelly's investigation of the party.

#### **Questions**

- 1) If you were the defendants, how would you try to get the judge to suppress the evidence?
- 2) If you were the prosecutor, what would you say to get the judge to keep the evidence?
- 3) As the judge, how would you rule?
- 4) After you read the case, answer the following:
  1. Does it make sense that the court chose not to decide whether or not the standard for “reasonable grounds” is higher than that for “reasonable suspicion”?
  2. Why did the court decide the deputy's conduct was not objectively reasonable (What was its reasoning)?
    1. Do you agree or disagree? Why?
  3. What was the most important factor in the decision?

#### **Facts**

Deputies Kelly and Swanson received a report from a citizen that minors were drinking alcohol at a bonfire on the beach. Based on that report, Kelly and Swanson drove to the location in a marked police vehicle. When Kelly approached the fire, she saw a mixed age group, some of whom held alcoholic beverages. Kelly believed at least some of the people possessing alcoholic beverages were minors.

When Kelly approached the fire, Reigner, Klug and Johnson (“the defendants”), who were not holding alcoholic beverages, walked away from it. Kelly ordered the defendants to return, and attempted to get their identifying information. The defendants initially claimed not to have ID, then gave Kelly false ID; at some point Kelly was given correct information. Kelly arrested the defendants on charges of providing false information to a police officer, and possession of liquor by a minor.

At pretrial, the defendants made a motion to suppress all evidence from Kelly's investigation.

## Issues

1) Is the standard of “reasonable grounds to believe” a violation of the law occurred the same as the “reasonable suspicion” standard which allows officers to detain citizens? 2) Was there an objectively reasonable suspicion allowing the deputy to restrain the liberty of defendants?

## What Happened at Trial

The trial court granted the motion to suppress, holding that there were not reasonable grounds to believe the defendants were in possession of alcohol.

## How Did This Case Reach The Oregon Court of Appeals or Supreme Court?

The State appealed the granted motion.

## Arguments

Plaintiff (State) has two arguments.

- 1) The trial court erred because “reasonable grounds to believe” a person has committed a violation of the law should be the same standard as the “reasonable suspicion” standard that gives an officer authorization to stop a person suspected of a crime.
- 2) The trial court erred in concluding that Kelly was not justified in stopping the defendants, because Kelly
  - 1 received a report of minors drinking at a beach party,
  - 2 upon arrival at the scene, observed people she believed to be underage holding alcoholic beverages,
  - 3 she believed defendants to be underage,
  - 4 defendants walked away when she arrived in her marked vehicle.

## Who Won?

The defendants won. The Court of Appeals affirmed the trial court's decision to grant the motion to suppress.

## How the Court Explained its Decision

The court held that

- 1) the standard for “reasonable grounds” appears to be higher than that for “reasonable suspicion,” under an earlier case (*State v. Gulley*), the court doesn't have to decide this issue because Deputy Kelly's suspicion that the defendants were in violation was not objectively reasonable.
- 2) Kelly's suspicion was not objectively reasonable because
  - 1 the defendants were not in *actual* possession of alcoholic beverages at the time Kelly detained them (i.e., they were not holding any cups or cans of alcohol).
  - 2 The defendants were not in *constructive* possession of alcoholic beverages at the time Kelly detained them (i.e., there was no keg or other communal container of alcohol present, nor did defendants appear to have control over the alcohol other people around the bonfire possessed).

## Application - significance of this case

This decision is likely to change the way officers approach suspected violators of the “liquor in possession of a minor” law. Being in the same location as someone who is violating that law does not mean that someone has committed a violation. Therefore, in order to charge someone with this or similar violation means that officers must be sure the person has either actual or constructive (implied)

possession of the alcohol.

The case should also give minors pause. Being with a group who are participants in illegal activities can cause people to end up in trouble with the legal system that drags on and on, even if the minor him-or herself is innocent. The incident took place in August 2005, yet the appeal was not heard until July 2009, nearly four years later.

Finally, note that the court does not decide the issue of the standard. Generally, courts try to decide only the issues they have to decide, and avoid making law unnecessarily. However, the opinion indicates that the standard for “reasonable grounds” seems to be higher than for “reasonable suspicion,” operating on the principle of *stare decisis* (the decision stands). The decision in *State v. Gulley* means that future cases should interpret this issue the same way as that court did.

Consider:

- 1) What is the difference between actual possession and constructive possession? Would it change the outcome of the case if defendants had actual possession? What about constructive possession?
- 2) How does this decision compare to the rule being an accessory to a crime? Why is it different? Is that fair?
- 3) How does the court decide whether “reasonable grounds” and “reasonable suspicion” are different?