

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2007-CA-002172-MR

KEITH CAMPBELL

APPELLANT

v. APPEAL FROM GARRARD CIRCUIT COURT  
HONORABLE C. HUNTER DAUGHERTY, JUDGE  
ACTION NO. 07-CR-00012

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: STUMBO AND THOMPSON, JUDGES; GUIDUGLI,<sup>1</sup> SENIOR JUDGE.

STUMBO, JUDGE: This is an appeal of a conditional plea of guilty to a DUI from the Garrard Circuit Court. Keith Campbell (Appellant) reserved the right to appeal the trial court's denial of his motion to suppress evidence he contends was obtained during a warrantless search conducted in violation of his Fourth Amendment

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<sup>1</sup> Senior Judge Daniel T. Guidugli sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

rights. The Commonwealth claims the search was valid. We find that the search was valid and affirm the lower court's denial of Appellant's motion to suppress.

The facts of this case are simple and undisputed. On December 14, 2006, Garrard County Deputy Sheriffs, Brandon Conley and Keith Addison, conducted a vehicle safety checkpoint at the intersection of Kentucky Highways 753 and 152. During the operation of this checkpoint, Appellant was stopped.

Appellant was asked for his license, proof of insurance, and registration. When he handed them over, Deputy Conley noticed Appellant's eyes were bloodshot. The deputy asked Appellant if he had been drinking and Appellant responded in the affirmative. Appellant was then asked to exit the vehicle.

Deputy Conley administered field sobriety tests which Appellant failed. Appellant was arrested for DUI. Because there were only two deputies at the checkpoint, it had to be abandoned when Appellant was arrested and taken to the Lincoln County Detention Center. The checkpoint required at least two officers to properly operate.

Appellant argues that the stop was unconstitutional because the deputies had no plan to continue the checkpoint after the first arrest, there were no written procedures regarding the checkpoints, a supervising officer did not make the decision to set up the checkpoint or even approve one, there were no media announcements regarding the checkpoint, there was not an officer in charge of the checkpoint, and the purpose of the checkpoint was to detect any violation of the

law. Appellant relies on the case of *Monin v. Commonwealth*, 209 S.W.3d 471 (Ky. App. 2006), in support of his argument. *Monin* involved a checkpoint conducted by the Kentucky State Police (KSP).

In *Monin*, another panel of this Court held that the checkpoint was not constitutionally permissible because it was not conducted according to the written standards established by the KSP. Specifically, that there were no media announcements regarding the presence and nature of the checkpoint; that there was no indication that one of the officers was the designated officer in charge of the operation; that there was no plan to maintain the checkpoint since it was immediately abandoned after *Monin* was arrested; and that the checkpoint had not been properly planned or authorized. *Id.* at 474. The Court found that this was actually an isolated stop later characterized as a checkpoint stop. *Id.*

We find that *Monin* is distinguishable from this case and that the case of *Commonwealth v. Buchanan*, 122 S.W.3d 565 (Ky. 2003), is controlling. For a traffic checkpoint to pass constitutional muster, there must be “constrained discretion of officers at the scene, and that the checkpoint be established pursuant to some sort of systematic plan.” *Buchanan* at 569.

In *Buchanan*, the Kentucky Supreme Court set forth several “nonexclusive factors to consider in determining the reasonableness of a particular roadblock.” *Id.* at 570.

First, it is important that decisions regarding the location, time, and procedures governing a particular roadblock should be determined by those law enforcement officials

in a supervisory position, rather than by the officers who are out in the field. Any lower ranking officer who wishes to establish a roadblock should seek permission from supervisory officials. Locations should be chosen so as not to affect the public's safety and should bear some reasonable relation to the conduct law enforcement is trying to curtail.

Second, the law enforcement officials who work the roadblock should comply with the procedures established by their superior officers so that each motorist is dealt with in exactly the same manner. Officers in the field should not have unfettered discretion in deciding which vehicles to stop or how each stop is handled.

Third, the nature of the roadblock should be readily apparent to approaching motorists. At least some of the law enforcement officers present at the scene should be in uniform and patrol cars should be marked in some manner. Signs warning of a checkpoint ahead are also advisable.

Fourth, the length of a stop is an important factor in determining the intrusiveness of the roadblock. Motorists should not be detained any longer than necessary in order to perform a cursory examination of the vehicle to look for signs of intoxication or check for license and registration. If during the initial stop, an officer has a reasonable suspicion that the motorist has violated the law, the motorist should be asked to pull to the side so that other motorists can proceed.

We reiterate that the above list of factors is not exhaustive. Also, a mere violation of one factor does not automatically result in a violation of constitutional proportions. The guidelines are to be applied on a case-by-case basis in order to determine the reasonableness of each roadblock.

*Id.* at 571.

It appears that in *Monin*, a KSP officer used the pretext of a traffic checkpoint to stop a vehicle he suspected was being operated by a drunk driver because he saw the vehicle leave a bar. That is not the case here.

At the suppression hearing, Deputy Conley testified that although the checkpoint was his idea, he called the Sheriff and received permission to set one up. Also, through this testimony, a memo was entered into evidence which showed that the intersection of Kentucky Highways 753 and 152 had been pre-approved by the Sheriff as a proper place to have a checkpoint.

Deputy Conley did testify that while the Sheriff's office had no written instructions on how to properly conduct a roadblock, he had participated in them before, used the same techniques every time, and that each motorist was treated exactly the same. He also stated that every vehicle that passed through the checkpoint was stopped and the driver was asked for his driver's license, proof of insurance, and registration.

Testimony also revealed that although no signs warned motorists a checkpoint was ahead, the police cruisers had all their lights on and the officers were in their uniforms. This readily informed the approaching motorists what was taking place.

Finally, Deputy Conley testified that the stops lasted no longer than was necessary to make sure the motorists had their vehicle information and were not under the influence of drugs or alcohol.

The arguments set forth by Appellant using *Monin* do not apply here. In *Monin*, the officer making the stop was from the KSP. The KSP had written regulations which were not followed and even the *Monin* court found that this was an isolated stop later characterized as a checkpoint stop which was intended to only apprehend Monin.

Here, the evidence established that the deputies had permission to establish the checkpoint, had no discretion as to who to stop, treated each motorist in the same manner, and only stopped each one for a reasonable amount of time. Also, this was a safety checkpoint to make sure motorists were operating their vehicles properly and not one set up to discover any and all violations of the law; thus, it had a specific purpose. Finally, in *Monin*, the alleged checkpoint ended because the officer arrested the person he intended to. Here, the checkpoint ended because it was no longer logistically possible to maintain. The factors in *Buchanon* were followed by the Garrard County deputies and nothing they did suggests this was an impermissible traffic checkpoint.

We find that the checkpoint in the case at bar was constitutionally reasonable and therefore the motion to suppress was properly denied. Accordingly we affirm.

ALL CONCUR.

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