



because defendant failed to yield to an emergency vehicle, then the facts of the stop must be looked at. Upon request of the officer, defendant produced valid registration and insurance papers and a valid driver's license. Officer Boeckman (as can be seen in the video tape) returned the registration and insurance papers to defendant and took the driver's license back to his car where he carried on a conversation with dispatch. He then returned to defendant's car, gave defendant his driver's licence back, gave him an oral warning about the alleged traffic violation, and told defendant he was free to leave.

Before defendant could do so, Officer Boeckman advised defendant that he wanted to search defendant's car. Defendant declined and said he just wanted to leave. Boeckman pressed the request again and defendant, not wanting to argue, got out of his car. While conducting a routine traffic stop, an officer may request driver's license and vehicle registration, run a computer check and issue a citation. A driver must be allowed to leave once he has provided proof he is entitled to operate a vehicle without being further questioned by law enforcement. State v. Mitchell, 265 Kan. 238, 245(1998). Investigative detention must last no longer than necessary to effectuate the purpose of the stop. State v. DeMarco, 253 Kan. 727, 734(1998).

After the defendant told the officer he didn't want his car to be searched, it was time for the officer to let the defendant go on his way. The evidence showed no reasonable suspicion held by Officer Boeckman that the defendant was involved in illegal activity. It was clear from the evidence that Officer Boeckman

was on the lookout for defendant and would go as far as he legally could to trip him up. This is evidenced by the admitted pretextual nature of the stop and the officer's fervent belief defendant was involved in drug trafficking because of anonymous tips he had received.

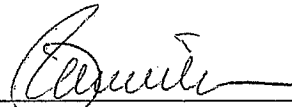
Because the detention was involuntary and illegal, everything thereafter must be suppressed. The evidence cannot be admitted as a result of a search after the arrest for distribution because there should have been no such arrest and no need for a search if defendant had been allowed, as he should have been, to leave the scene of the traffic stop.

As to evidence against defendant [REDACTED], it must be suppressed as well. The State would argue that defendant [REDACTED] has no standing to challenge the consensual search of defendant's home. Had the police been there legally this would be true. The facts of this case, however, are that the consent would have never been given had defendant been allowed to go on his way. Thus, the search of defendant [REDACTED]'s person and all items found in the apartment must be suppressed.

IT IS THEREFORE ORDERED that all evidence and statements taken from the defendants in the above-captioned cases are hereby suppressed.

The parties are to appear March 26, 2007, at 10:30 a.m. for a status conference on these two cases.

IT IS SO ORDERED.



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PAUL E. MILLER  
District Court Judge, Div. I