



The Dog Days Are Over: *Terry Stops, Traffic Stops, and Dog Sniffs After Rodriguez*

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Picture yourself on the side of the road after being stopped by the police for a minor, noncriminal traffic infraction—say, a broken taillight. Then imagine the officer who stopped you says, “You seem nervous. Can I search your car?” Being in a hurry and knowing your constitutional rights, you decline the officer’s request. “That’s fine,” the officer says. “Just wait here while we bring a K-9 unit.” Imagine you were then made to wait for 30 minutes or longer while the officer summons a drug-sniffing dog, despite there being no evidence you’ve committed any crime (let alone a crime involving drugs). Now imagine the dog alerts the officers to drugs, which K-9 dogs often do falsely.¹ The broken taillight has now become a full-fledged criminal investigation—and you’re the suspect.

The “mission” of a traffic stop has recently been refined by the Supreme Court, which has curbed law enforcement’s ability to use a minor traffic violation as a pretext to a criminal investigation. In *Rodriguez v. United States*,² the Supreme Court held that police officers cannot prolong a traffic stop to bring a K-9 unit to conduct an investigation. Instead, the “mission” of a traffic stop must only involve writing a citation and related activities.

But that holding could also have broader implications that reach beyond traffic stops and dog sniffs. Indeed, it could affect every interaction between citizens and police.

A Brief History of Police Encounters

Generally, police officers are given some latitude to interact with the public, even when there is no probable cause that an individual has committed a crime.

A *Terry*³ stop is a brief detention of a person by police based on reasonable and articulable suspicions of involvement in a crime that falls short of probable cause.⁴ Under the Fourth Amendment, an officer who lacks probable cause but whose “observations lead him reasonably to suspect” that a particular person has committed, is committing, or is about to commit a crime, may detain that person briefly in order to “investigate the circumstances that provoke suspicion.”⁵ The Supreme Court has held that “a routine traffic stop ... is a relatively brief encounter and is ‘more analogous to a so-called *Terry* stop.’”⁶

In *Pennsylvania v. Mims*,⁷ the Court held that it was also permissible under the Fourth Amendment to ask a person to exit their vehicle during a routine traffic stop, even when there is no reason to suspect other criminal activity. The Court reasoned that, among other things, the additional intrusion into a driver’s personal liberty by the order to get out of the car “can only be described as *de minimis*.”⁸ This concept of a “*de minimis*” deprivation of rights will later resurface in *Rodriguez* and will be viewed more skeptically.

The *Mims* Court balanced the intrusion into a person’s liber-

ty with the need to protect law enforcement officers from potential dangers that can come from both oncoming traffic and from criminals who mean to harm the officer. It held that “[w]hat is at most a mere inconvenience cannot prevail when balanced against legitimate concerns for the officer’s safety.”⁹

However, “the stop and inquiry must be ‘reasonably related in scope to the justification for their initiation.’”¹⁰ In other words, an officer may only question a driver to determine his or her identity and to try to obtain information confirming or dispelling any suspicions.¹¹ While the officer is questioning the driver, this is not a formal detention that requires more stringent constitutional protections, such as *Miranda* warnings.¹² Barring other information, unless the driver’s answers provide the officer with probable cause for an arrest, the driver must be released.

Your Smells Are Not Your Own

The Supreme Court’s jurisprudence on dog sniffs considers the implications of the privacy of the scents emanating from a person’s property in a variety of settings, including an airport, a car, and a home. The Court has held that, generally, a person does not have a privacy interest in the odor emanating from contraband.

In *United States v. Place*, the Supreme Court looked at dog sniffs of luggage searched at an airport.¹³ The Supreme Court held that luggage could be subject to a dog sniff without a warrant under the principles of *Terry*. The Court reasoned that “when an officer’s observations lead him reasonably to believe that a traveler is carrying luggage that contains narcotics, the principles of *Terry* and its progeny would permit the officer to detain the luggage briefly to investigate the circumstances that aroused his suspicion.”¹⁴

The Court also held that dog sniffs are generally nonintrusive. It recognized that a “canine sniff” by a well-trained narcotics detection dog ... does not require opening of the luggage. It does not expose noncontraband items that otherwise would remain hidden from public view, as does, for example, an officer’s rummaging through the contents of the luggage. Thus, the manner in which information is obtained through this investigative technique is much less intrusive than a typical search.”¹⁵

In *Place*, the defendant’s luggage was detained for 90 minutes, and the defendant wasn’t told where the luggage was being taken or how long the search would last. The Court held that the length of the detention of the defendant’s luggage in *Place* was unreasonable under the Fourth Amendment. It recognized that “the brevity of the invasion of the individual’s Fourth Amendment interests is an important factor in determining whether the seizure is so minimally intrusive as to be justifiable on reasonable suspicion.”¹⁶ Thus, the Court held that the detention went beyond the “narrow authority” of police to briefly detain luggage.¹⁷

Almost two decades later, in response to the wider use of drug-sniffing dogs, in *Illinois v. Caballes*¹⁸ the Supreme Court examined the issue of how a search by a narcotics-detection dog relates to the rights of a driver during a traffic stop. There, the defendant was stopped for speeding. Another officer heard the call and responded to the scene with his drug-sniffing dog. While the first trooper wrote a warning ticket, the second led his dog around the car. The dog alerted the officers to the presence of drugs in the trunk. The officers then searched the trunk, found marijuana, and arrested the defendant.¹⁹

The defendant challenged the search, and the Illinois Supreme Court held that the “use of the dog converted the citizen–police encounter from a lawful traffic stop into a drug investigation, and because the shift in purpose was not supported by any reasonable suspicion that respondent possessed narcotics, it was unlawful.”²⁰ The Supreme Court reversed, holding that “the use of a well-trained narcotics-detection dog ... during a lawful traffic stop, generally does not implicate legitimate privacy interests.”²¹

In so holding, the Court reasoned that “[o]fficial conduct that does not ‘compromise any legitimate interest in privacy’ is not a search subject to the Fourth Amendment.”²² Further, “any interest in possessing contraband cannot be deemed ‘legitimate,’ and thus, governmental conduct that *only* reveals the possession of contraband ‘compromises no legitimate privacy interest.’”²³ The expectation “that certain facts will not come to the attention of the authorities” is not the same as an interest in “privacy that society is prepared to consider reasonable.”²⁴ In other words, the defendant

certification or training program can itself provide sufficient reason to trust his alert.”²⁹ While the Court recognized that a defendant may challenge the government’s evidence of the reliability of a dog’s alert, it also held that a “probable-cause hearing focusing on a dog’s alert should proceed much like any other.”³⁰

Thus, prior to *Rodriguez*, the Supreme Court was generally lenient with the ability of police officers to conduct searches using drug-sniffing K-9 units. However, in *Rodriguez* the Supreme Court would also confront the issue of how the lack of a privacy interest in the scents emanating from contraband interacts with the liberty to be relatively free from police interference absent probable cause.

Mr. Rodriguez Has a Bad Night

In *Rodriguez*, a Nebraska police officer, Struble, saw a driver, Rodriguez, veer off the road momentarily. The officer then initiated a traffic stop at 12:06 a.m. The officer gathered the driver’s license, registration, and insurance information. He ran a records check on Rodriguez’s information and returned to the vehicle to ask for the passenger’s identification and question the two occupants. The officer returned to his vehicle to run a records check on the passenger and call for a second officer. Struble then wrote a warning ticket for Rodriguez’s traffic infraction.³¹

Struble returned to the vehicle (for a third time), explained the warning to Rodriguez, and gave back his documents. This occurred approximately 21 to 22 minutes after the stop began. By that point the officer had “all the reason[s] for the stop out of the way.”³² Nonetheless, the officer asked for permission to walk his drug-sniffing dog

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did not have a privacy interest in the contraband item; therefore, the “dog sniff was not a search subject to the Fourth Amendment.”²⁵

In *Caballes*, the Supreme Court also held that “[a] seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission.”²⁶ However, that issue was not explored in depth because the Supreme Court “accepted the state court’s determination that the duration of the stop was not extended by the dog sniff.”²⁷ This issue was later addressed in *Rodriguez*, when the issue of prolonging a traffic stop was put front and center.

What evidentiary weight should an alert from a drug-sniffing dog carry? According to the Supreme Court, an alert from a well-trained dog is likely sufficient to form probable cause for a search of a vehicle. In *Florida v. Harris*,²⁸ the defendant had challenged a dog’s reliability in detecting drugs. The Court rejected Florida’s rigid test that required the state to present exhaustive evidence of a dog’s reliability (including a log of the dog’s field performance). Instead, the Court held that “evidence of a dog’s satisfactory performance in a

around the vehicle. Rodriguez declined. Struble then instructed Rodriguez to exit the vehicle and wait for the second officer to arrive.”³³

At 12:33 a.m., another deputy arrived, and Struble led his police dog around the car twice. The dog alerted to the presence of drugs halfway through the second pass. “All told, seven or eight minutes had elapsed from the time Struble issued the written warning until the dog indicated the presence of drugs.”³⁴ A search of the vehicle revealed methamphetamine.³⁵

Rodriguez was indicted on one count of possession with intent to distribute 50 grams or more of methamphetamine. He moved to suppress the evidence seized from his car because Struble prolonged the traffic stop without reasonable suspicion in order to conduct the dog sniff. The magistrate judge denied the motion, finding that “extension of the stop by ‘seven to eight minutes’ for the dog sniff was only a *de minimis* intrusion on Rodriguez’s Fourth Amendment rights and was therefore permissible.”³⁶ The Eighth Circuit Court of Appeals affirmed, holding that “the ‘7 to 10 minutes’ added to the stop by the dog sniff ‘was not of constitutional significance.’”³⁷ In

affirming, the Eighth Circuit relied on the holding of *Mimms* and reasoned that the government's "legitimate and weighty" interest in officer safety outweighed the "*de minimis*" additional intrusion of requiring a driver, lawfully stopped, to exit a vehicle.³⁸

The Supreme Court reversed. Justice Ruth Bader Ginsburg wrote for the majority and recognized that "[l]ike a *Terry* stop, the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission'—to address the traffic violation that warranted the stop and attend to related safety concerns.³⁹ ... Authority for the seizure thus ends when tasks tied to the traffic infraction are—or reasonably should have been—completed."⁴⁰

The Court reviewed its own precedent, quoting *Caballes*, for the proposition "that a traffic stop 'can become unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission' of issuing a warning ticket."⁴¹ Further, the Court quoted its warning from *Arizona v. Johnson*⁴² that a "seizure remains lawful only 'so long as [unrelated] inquiries do not measurably extend the duration of the stop.'"⁴³ In other words, an officer may not conduct unrelated checks during an otherwise lawful traffic stop "in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual."⁴⁴

Ordinary safety measures are permitted, such as "checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance."⁴⁵ However, a "dog sniff, by contrast, is a measure aimed at 'detect[ing] evidence of ordinary criminal wrongdoing.'"⁴⁶ "Lacking the same close connection to roadway safety as the ordinary inquiries, a dog sniff is not fairly characterized as part of the officer's traffic mission."⁴⁷

The Court distinguished its prior holding in *Mimms* by holding that the officer-safety interest recognized in that case "stemmed from the danger to the officer associated with the traffic stop itself. On-scene investigation into other crimes, in contrast, detours from the officer's traffic-control mission and therefore gains no support from *Mimms*."⁴⁸ Likewise, so do "safety precautions taken in order to facilitate such detours."⁴⁹

The government argued in *Rodriguez* that "an officer may 'incrementally' prolong a stop to conduct a dog sniff so long as the officer is reasonably diligent in pursuing the traffic-related purpose of the stop."⁵⁰ Under the government's argument, if an officer can complete a traffic stop more swiftly than a mere "reasonably diligent" officer would, he or she would have the difference in time to conduct a drug investigation, without probable cause. The Supreme Court rejected that argument, holding that the government's position would allow an expeditious officer "bonus time to pursue an unrelated criminal investigation."⁵¹

Instead, the Court ultimately held that "the reasonableness of a seizure ... depends on what the police in fact do."⁵² ... If an officer can complete traffic-based inquiries expeditiously, then that is the amount of 'time reasonably required to complete [the stop's] mission'" and "a traffic stop 'prolonged beyond' that point is 'unlawful.'"⁵³ Thus, the Court concluded that "[t]he critical question, then, is not whether the dog sniff occurs before or after the officer issues a ticket ... but whether conducting the sniff 'prolongs'—*i.e.*, adds time to—the stop."⁵⁴

Thus, the ultimate holding of *Rodriguez* is that an officer cannot prolong a traffic stop by any length of time in order to conduct a dog sniff. Any such delay is unconstitutional.

Theoretically, if two officers, riding together, who also happen to have a drug-sniffing dog stop a car for a traffic violation, one officer could undertake the traffic-related mission while the other conducts a dog-sniff. Assuming the sniff was completed before the traffic officer completes his mission (and assuming the traffic officer does not engage in other delay), then under *Rodriguez* the sniff would likely be constitutional and the evidence therefrom would be admissible. But if the traffic officer and the K-9 officer had any interaction at all while each completed their mission, a defendant could argue that such interaction added time to the traffic stop; therefore, the dog-sniff was unconstitutional.

It is likely that future litigation involving this issue will continue to develop regarding whether the length of a traffic stop was reasonable. Imaginative criminal defense attorneys will be able to argue that *any* act that adds to the length of a traffic stop renders a search unconstitutional, not just dog sniffs. For example, with the growing use of body cameras worn by police officers, one can envision a scenario where the defendant has video of the officer prolonging a traffic stop doing something fairly innocuous (perhaps responding to a text message) and using that delay to move for exclusion of evidence.

But, as discussed below, courts have already applied the *Rodriguez* holding in a broader context of police interactions.

After Rodriguez, Two Paths

In the brief time since the *Rodriguez* ruling, several Circuit Courts of Appeals have already examined its implications. Those courts have generally come down one of two ways. On the one hand, if there is a separate reasonable suspicion of a crime (independent of an improper dog sniff), then the search has been upheld. On the other hand, if a police interaction is prolonged after the original mission without a separate, reasonable, and articulable suspicion of a crime, some courts are applying *Rodriguez* to exclude the evidence from the search.

In *United States v. Zuniga*, the Sixth Circuit Court of Appeals found that there was a legitimate basis to extend a traffic stop for a dog sniff.⁵⁵ There, an FBI task force was aware of a drug trafficking conspiracy in Memphis, Tennessee, and knew that a certain truck would be traveling from Memphis through Arkansas to Texas carrying either drugs or money. The FBI contacted an Arkansas state trooper who then pulled over the truck when it entered Arkansas. The trooper, Behnke, also had a certified narcotics-detection dog with him. When it passed the trooper, the truck was driving in two different lanes, in violation of Arkansas law.⁵⁶

When Behnke activated his lights to pull the truck over after the traffic violation, the truck drove at least a half mile before pulling to the side of the road, despite nothing preventing it from stopping immediately. The driver, Zuniga, acted nervously when asked for his insurance card and driver's license. He admitted that he was in the country illegally. Zuniga then initially lied about where he was coming from but soon admitted that he was traveling from Memphis to Texas, consistent with the FBI's information. Finally, Zuniga's insurance card indicated that it was issued from Dallas just two days prior to the traffic stop, which seemed suspicious to Behnke because Zuniga claimed he was traveling to Texas to spend the Fourth of July with his family.⁵⁷

Based on all these factors, and the fact that Behnke knew about the FBI's information that the truck Zuniga was driving was going

to Texas with drugs or money, the Sixth Circuit found under *Rodriguez* that the additional time for the dog sniff was justified because the trooper had reasonable suspicion to investigate Zuniga further.⁵⁸

Conversely, other Circuit Courts of Appeals are applying *Rodriguez* to encounters that do not involve dog sniffs at all, finding that some other mission nonetheless cannot constitutionally prolong a police interaction. In *United States v. Evans*, the Ninth Circuit vacated and remanded a conviction based on an unconstitutional delay of a traffic stop.⁵⁹ There, law enforcement had information that Evans was distributing methamphetamine. Later, after learning Evans' location, a deputy pulled over Evans car for making an unsafe lane change. The deputy performed some of the normal functions of a traffic stop, such as asking for license and registration, and performed a warrants and records check. But *after* completing those normal tasks, the deputy

either a traffic stop or a dog sniff, the implication is that an officer can conduct a *Terry* stop based only on his or her initial reasoning. When that mission is completed, the results from any other search or inquiry must be excluded unless supported by other, independent, and articulable suspicion.

Practice Tips

What can a practitioner take away from these developments in Supreme Court jurisprudence? In any case involving an arrest after a traffic or *Terry* stop, the diligent attorney must examine the entirety of the circumstances surrounding the search and arrest. What was the scope of the officer's reasonable suspicion? What did the officer actually do during the interaction? Did the officer merely run the license plate and see if the driver had any outstanding warrants,

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requested an ex-felon registration check. That ex-felon registration check added eight minutes to the encounter.⁶⁰

The Ninth Circuit held that those extra eight minutes were “hardly negligible,”⁶¹ and they “violated Evans’ Fourth Amendment rights to be free from unreasonable seizures when [the officer] prolonged the traffic stop to conduct this task, unless he had independent reasonable suspicion justifying this prolongation.”⁶² Further, the court held that the “ex-felon registration check in no way advanced officer safety.”⁶³ The Ninth Circuit remanded to the district court to determine whether the deputy’s prolongation of the traffic stop was supported by independent reasonable suspicion.

Likewise, in *United States v. Watson*⁶⁴, the government filed an interlocutory appeal of the district court’s granting of the defendant’s motion to suppress. There, Watson was stopped by a police officer looking for a robbery suspect named Butler. The officer identified a resemblance between the two men, despite Watson’s denial that he was Butler and production of valid identification. Nevertheless, the officer frisked Watson and discovered a gun and crack cocaine. The district court did not find credible the officer’s testimony that he could not distinguish between Butler and Watson and granted the motion to suppress the evidence from the encounter.⁶⁵

Citing *Rodriguez*, the Second Circuit Court of Appeals affirmed.⁶⁶ It recognized that “[a]uthority for the seizure thus ends when tasks tied’ to the reason for the stop’—here, determining whether Watson was Butler—‘are—or reasonably should have been—completed.’”⁶⁷ In other words, once the officer should have reasonably concluded that Watson was not Butler, there was no basis to prolong the encounter.⁶⁸

These two lines of cases, the *Evans-Watson* line and the *Zuniga* line, tend to demonstrate that, if law enforcement had knowledge of criminal activity (independent of a dog sniff or other basis), the interaction can move forward, and the search will be upheld. But *Watson* also envisions a broader impact of *Rodriguez*, drawing more narrowly the definition of a *Terry* stop. Since *Watson* did not involve

or did he or she undertake other activities that were not related to the traffic mission? As in *Watson*, did the officer complete the original mission before then deciding to frisk the defendant? If so, then absent another grounds for reasonable suspicion, a defendant may have a valid basis to move for exclusion of any evidence obtained after completion of the mission.

The diligent attorney should closely examine all aspects of the defendant’s interaction with law enforcement to determine what was related to the mission of the stop and what was not. Make a timeline of all the events that happened during the encounter and all actions taken by law enforcement officers. A defendant can use *Rodriguez* to seek exclusion of evidence found after delay or completion of that mission. ☉



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Endnotes

¹Dan Hinkel and Joe Mahr, *Tribune Analysis: Drug-sniffing dogs in traffic stops often wrong*, CHICAGO TRIBUNE, Jan. 6, 2011, available at articles.chicagotribune.com/2011-01-06/news/ct-met-canine-officers-20110105_1_drug-sniffing-dogs-alex-roth-acker-drug-dog.

²135 S.Ct. 1609 (Apr. 21, 2015).

³A *Terry* stop is named after *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L. Ed. 2d 889 (1968).

⁴See *United States v. Sharpe*, 470 U.S. 675, 689, 105 S.Ct. 1568, 1577, 84 L. Ed. 2d 605 (1985).

⁵*United States v. Brignoni-Ponce*, 422 U.S. 873, 881, 95 S.Ct. 2574, 2580, 45 L.Ed.2d 607 (1975).

⁶*Knowles v. Iowa*, 525 U.S. 113, 117 (1998) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 439-40 (1984)).

⁷434 U.S. 106 (1977).

⁸*Id.* at 111.

⁹*Id.*

¹⁰*Id.* (quoting *Terry v. Ohio*, 392 U.S., at 29).

¹¹*Berkemer*, 468 U.S. at 439.

¹²*Miranda v. Arizona*, 384 U.S. 436 (1966).

¹³462 U.S. 696 (1983).

¹⁴*Id.* at 706 (emphasis added).

¹⁵*Id.* at 707.

¹⁶*Id.* at 709.

¹⁷*Id.* at 710. See also *Florida v. Royer*, 460 U.S. 491 (1983).

¹⁸543 U.S. 405 (2005).

¹⁹*Id.* at 406-08.

²⁰*Id.* at 408.

²¹*Id.* at 409.

²²*Id.* at 408 (quoting *United States v. Jacobsen*, 466 U.S. 109, 123 (1984)).

²³*Id.*

²⁴*Id.* at 408-09 (but see *Florida v. Jardines*, 133 S.Ct. 1409 (2013) (holding that law enforcement officers' use of drug-sniffing dog on front porch of home where they suspected, without probable cause, that marijuana was being grown was a trespassory invasion of the curtilage which constituted a "search" for Fourth Amendment purposes)).

²⁵*Muehler v. Mena*, 544 U.S. 93, 101 (2005).

²⁶*Caballes*, 543 U.S. at 407.

²⁷*Muehler v. Mena*, 544 U.S. at 101 (citing *Caballes*, 543 U.S. at 407).

²⁸133 S.Ct. 1050 (2013).

²⁹*Id.* at 1057.

³⁰*Id.* at 1058.

³¹135 S.Ct. 1609, 1612-13 (2015).

³²*Id.*

³³*Id.*

³⁴*Id.* at 1613.

³⁵*Id.*

³⁶*Id.*

³⁷*Id.* at 1614.

³⁸*Id.*

³⁹*Id.* (citing *Caballes*, 543 U.S. at 407); *United States v. Sharpe*, 470 U.S. 675 (1985); *Florida v. Royer*, 460 U.S. 491, 500 (1983) (plurality opinion) ("The scope of the detention must be carefully tailored to its underlying justification.").

⁴⁰*Id.* (citing *Sharpe*, 470 U.S., at 686, 105 S.Ct. 1568 (in determining the reasonable duration of a stop, "it [is] appropriate to examine whether the police diligently pursued [the] investigation."))

⁴¹*Id.* at 1614-15 (citing *Caballes*, 543 U.S. at 407).

⁴²555 U.S. 323, 129 S.Ct. 781 (2009).

⁴³*Id.* at 1615.

⁴⁴*Id.*

⁴⁵*Id.*

⁴⁶*Id.*

⁴⁷*Id.* (emphasis added).

⁴⁸*Id.* at 1616.

⁴⁹*Id.* at 1615.

⁵⁰*Id.* at 1616.

⁵¹*Id.*

⁵²*Id.*

⁵³*Id.* (citing *Caballes*, 543 U.S. at 407).

⁵⁴*Id.* at 1616.

⁵⁵___ Fed. Appx. ___, 2015 WL 3462868, at *1 (6th Cir. June 1, 2015).

⁵⁶*Id.* at *1-4.

⁵⁷*Id.*

⁵⁸See also *United States v. Frierson*, ___ Fed. Appx. ___, 2015 WL 3485994, at *2 (3d Cir. June 2, 2015) (affirming the district court's denial of a motion to suppress, finding that the officers developed reasonable suspicion of criminal activity during the traffic stop. That additional suspicion was based on: "(1) the SUV and its occupants were from another state, (2) the SUV was a rental, (3) there were three cell phones in the console, (4) [defendant] had an extensive criminal history, (5) [defendant] had crossed into Mexico four times in 2009, and (6) [a passenger] had rented five cars in the past four months."); *United States v. Ruiz*, 785 F.3d 1134, 1143 (7th Cir. 2015) (holding that "assuming reasonable suspicion exists (as it did here), a reasonable delay attributable to arranging for a canine unit to conduct a sniff may permissibly extend the duration of a stop.").

⁵⁹786 F.3d 779 (9th Cir. 2015).

⁶⁰*Id.* at 781-84.

⁶¹*Id.* at 787.

⁶²*Id.* (see also *United States v. Pettit*, 785 F.3d 1374, 1379 (10th Cir. 2015) (citing *Rodriguez* and holding that "a lawful traffic stop may not extend beyond the time reasonably required to effectuate its purpose.")).

⁶³*Id.* at 787.

⁶⁴787 F.3d 101 (2d. Cir. 2015).

⁶⁵*Id.* at 102-04.

⁶⁶*Id.* at 105.

⁶⁷*Id.* (quoting *Rodriguez*, 135 S.Ct. at 1614).

⁶⁸See also *Martinez v. Mares*, ___ Fed. Appx. ___, 2015 WL 3461329, at *1 (10th Cir. June 2, 2015) (in a civil case where the plaintiffs sued officers who detained them after a case of mistaken identity, the district court denied the officers qualified immunity, ruling that the officers violated Mr. Martinez's constitutional rights after learning his identity, but continuing to search and detain him).