

Finding police orders unlawful, Supreme Court reverses conviction

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SALEM — Determining that police need more than a “hunch” to stop citizens, the Oregon Supreme Court has reversed a man’s conviction of interfering with a peace officer.

The decision, issued last week, could affect encounters between police and the public as well as how courts respond to such interactions. The Supreme Court sent the case back to a lower court for further proceedings.

A majority of the seven-member court determined that orders by a Beaverton officer for a man to be handcuffed weren’t lawful because police didn’t have a constitutionally justified suspicion that he had or was about to commit a crime.

But a dissenting opinion from Justices Thomas Balmer and Christopher Garrett argued that the majority’s opinion “muddies the

standards” for police officers while “needlessly” undermining the ability for law enforcement to address physical threats.

Ofer Raban, a professor of law at the University of Oregon School of Law, described the court’s decision as “very technical and convoluted” and wasn’t sure how it would be applied in trial courts.

He said the court’s decision wasn’t a “clear declaration” that people aren’t obligated to follow police orders.

“But it creates more uncertainty for when people can be held criminally liable for when they don’t follow,” said Raban. He added the decision “muddies the water” for citizens.

The case

According to court summaries, the case involved two Beaverton police officers who in 2014 stopped Eric L. Kreis as he was standing near parked cars in a restaurant parking lot. The parking lot

had been closed for about 20 minutes and had been the site of frequent car thefts.

Officers stopped Kreis to see if he was preparing to break into cars or about to drive while intoxicated.

Both officers approached Kreis and asked him for his name, whether one of the cars in the parking lot was his and if he worked for the restaurant. Kreis didn’t respond and stepped away from the officers, one of whom told him he was not free to leave until their investigation was complete.

Kreis refused to answer questions. One of the officers noted that Kreis appeared angry and showed signs of intoxication. After other police arrived, officers again asked Kreis to answer questions. Kreis furrowed his brow, made fists, took a bladed stance and began shifting his weight back and forth while appearing to look for an escape route, according to the court summary.

An officer told Kreis if he didn’t answer the questions he would be arrested. Kreis responded, “I am not going to be arrested.” Kreis resisted the officers as he was handcuffed and arrested. He was charged with interfering with a peace officer and resisting arrest.

At trial, Kreis’ lawyer argued the officer’s order wasn’t legal because police had no reasonable suspicion he had committed or was about to commit a crime.

Prosecutors argued police had reasonable suspicion Kreis was about to drive impaired or commit theft. They further argued that even if the stop was unlawful the officer’s order for Kreis to be handcuffed was justified out of concerns for officer safety.

The jury found Kreis guilty of interfering with a peace officer, but acquitted him on resisting arrest. Kreis appealed the conviction to the Court of Appeals, which

ruled against him, and he took the case to the Supreme Court.

Under state law, someone commits the crime of interfering with a peace officer if they refuse a “lawful order” made by an officer. In its decision, the Supreme Court noted it had previously defined “lawful order” as an order that is “authorized by, and is not contrary to, substantive law.”

Marc Brown, deputy public defender from the office of Defense Services, represented Kreis before the Supreme Court. Brown argued the officer’s order to handcuff him was unlawful.

According to the court’s opinion, Christopher Perdue, assistant attorney general, argued police have broad authority to issue orders that are only illegal “when they direct a person to commit a crime or to refrain from statutorily or constitutionally protected activity.”

However, the Supreme

Court ruled the Beaverton officer didn’t have a “reasonable belief” that Kreis was about to drive while under the influence. The court’s opinion noted that an officer must have “specific and articulable facts” to lead them to believe an individual has committed or will commit a crime.

The court said a “hunch” based on training and experience is, by itself, insufficient to form a basis for reasonable suspicion.”

The court also rejected the state’s arguments the officer gave Kreis a lawful order. The court reasoned that a police order is illegal when it interferes with a person’s freedom from unreasonable searches and seizures.

Calls to Oregon Association of Chiefs of Police and Oregon State Sheriffs’ Association were not returned. The Oregon State Police directed questions to the Oregon Department of Justice, which didn’t respond to a request for comment.

Complaints: Large number of calls involve speeding in neighborhood

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sheriff’s call log, time and time again.

“For the most part, that does good, and things get better. But then sometimes maybe another rig moves in. That’s just part of the business, in my opinion,” he said.

Some of the complaints are mundane.

A complaint from Oct. 15 states the caller “advised the Nissan on Brandon (Street) came around the corner like it was a racetrack” and went on to say the person driving the car did this daily: “Three or four times in the morning and then in the afternoon.”

Others not so much.

In an Oct. 30 incident regarding a blue or black Ford pickup truck, dispatch stated the caller, “thinks the driver doesn’t have a license.”

Another time, two calls from the same day expressed frustration toward the sheriff’s office.

One complaint reads a caller reported a Pontiac was speeding in the area.



The Morrow County Sheriff’s Office received more than 85 calls last month to this eight-block stretch of Southeast Utah Avenue in Irrigon.

The caller told dispatch if the vehicle came back onto Division Street, he would “deal with it himself.” The sheriff’s office attempted to get more information but the call disconnected.

Later that day, a caller “advised that if (the sher-

iff’s office) did not deal with” a Dodge pickup that was running stop signs, “he would deal with it by causing a big scene. And that he would deal with it the way he did before.”

According to the bulletin, the sheriff’s office was

unable to locate that Dodge truck.

The calls coming from Utah Avenue are excessive, Matlack noted, but emergency calls always take precedence over these non-emergency complaints dialed into dispatch.

According to other area law enforcement, handling those non-emergency calls to dispatch requires walking a fine line.

The Stanfield Police Department, which has five officers, including one for code enforcement, doesn’t offer 24/7 response like the Morrow County Sheriff’s Office. But Stanfield Police Chief Bryon Zumwalt finds value in the issuing of non-emergency complaints.

“You want people to report, we want people to be our eyes and ears,” he said.

But, he said, he wouldn’t necessarily pay an officer overtime to go address a repeated driving complaint either.

Pendleton Police Chief Stuart Roberts identified the challenge of non-emergency calls as a “delicate dance.”

“A lot of people can’t make that distinction that our authority is not unlimited,” he said. “Obviously a crime in progress will take precedence over a barking dog.”

But he said the documentation that occurs when someone reports suspicious activity to the police could

sometimes be used to aid a larger case, which is what happened with the arrest of Lukah Chang for the murder of Amy Jane Brandhagen, 19, in 2012, and the attempted murder and assault of Karen Lange the following year.

Prior to the murder, the police had made a few minor contacts with Chang since he’d moved to the area the year before. Roberts said those run-ins helped speed up the arrest process later.

He said it’s important to have patience with those non-emergency calls.

“It may not seem like a big deal to you, but for the person who initiated the report, it’s the most important thing for the reporter,” Roberts said.

The Pendleton Police Department responds to all calls for service, but Roberts said that increasing demands on services, at least in Umatilla County, could change that.

“Day or night, four agencies in Umatilla County have that 24-hour coverage,” he added. “The community is acclimated to that.”

Fire: Quick-thinking neighbor rescued the family’s 4 Rhode Island Reds

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point as “distracted.”

Neighbors from across the street took Mya, while Ashly started rounding up pets — three dogs and three cats.

“With all the people safe, I was scared for my pets,” she said.

At one point, the family’s 13-year-old cat, Tigger, tried to run back inside.

“We think Tigger ran back in to see if our daughter was still in bed,” Ashly said. “They are very close.”

Ashly grabbed the feline, but then he disappeared again. Hours later, they found him hiding inside a tipped-over garbage can.

The house is owned by Ashly’s mother, Deborah White, who lives there on a part-time basis and wasn’t home. The structure was gut-

ted and everything inside either consumed by fire or heavily damaged by water or smoke.

Firefighters responded from Pilot Rock, Pendleton, Echo and East Umatilla County. Umatilla County Fire District No. 1 Chief Scott Stanton said the Pilot Rock Fire Department had responded to the home on Oct. 10 for a carbon monoxide alarm.

“They determined that the alarm was not functioning properly and that there were no working smoke alarms in the residence,” he said.

Alarms were recently installed.

“The combination of a newly installed smoke alarm and a neighbor knocking on the door alerted the residents to the fire,” Stanton said.

According to Stanton, the



A family of three escaped with their lives when their Pilot Rock home burned Saturday morning. They had just installed a smoke detector.

cause of the fire was determined to be a stove burner that ignited items on the stovetop.

Numerous photos cov-

ering the living room walls are now ash. The loss of one photo in particular distresses Ashly — the image of her Italian great-great-grandfa-

ther encased in its original frame and beveled glass.

A few possessions survived the fire, including two iPhones and an iPad in a bedroom. Mike’s Otterbox case melted, but his phone survived. After the fire marshal said it was safe to return, Ashly dug around for Mya’s beloved stuffed bear. She found it on a bed, wet and covered in charcoal. A neighbor, Mindy Williamson, laundered it and returned it smelling faintly of smoke to a grateful Mya.

Mya’s four Rhode Island Red chickens survived the fire because of a quick-thinking neighbor. Michael Ford noticed the laying hens in their coop connected to the back of the house and sprayed them with a garden hose as the fire burned. The chickens seem alright. Two of them

laid eggs the next day.

The family is living in a Pendleton motel, trying to develop a plan for going forward. They will help Ashly’s mom deal with the insurance claim. They’ll concentrate on finding a new place to live and figuring out a way to replace clothing and other possessions.

“Ashly owns a pair of slippers, a hoodie and a pair of sweat pants,” said Samantha Hall, a longtime friend who grew up with Ashly in Pilot Rock. Hall, now a firefighter in Seaside, spent some of the weekend setting up a GoFundMe account (titled “Staggs family fire”) to help with expenses.

“Absolutely anything will help them,” Hall said. “They are starting from scratch and even \$5 can help buy a pack of socks.”

Aspen Springs: ‘We tried to make it as home-like as possible’

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In the center of the two hallways is a lounge area where patients can play board games, watch television, eat meals or socialize. A smaller “reflection room” allows for a quieter atmosphere, and the supervised courtyard with anti-climb fencing offers fresh air. There are also rooms where patients can meet with their therapist and/or family members.

Cathey said Lifeways is “pretty proud” of the hospital.

“It’s somewhere we would want our family or ourselves

to come here, should the need arise,” she said. “We tried to make it as home-like as possible.”

Before the state does its final sign-off to open the facility, it needs to be fully staffed. Cathey said recruiting positions, such as psychiatrists and masters-level therapists, can be difficult in a rural area, so if anyone is interested in working for Aspen Springs they should give Lifeways a call.

She said the hospital will be staffed around the clock, with 12-14 staff during the day and about half that num-

ber at night.

The average patient will stay five to eight nights. While Umatilla County residents in crisis have been sent out of the area for hospitalization in the past, Cathey said, their discharge will now be easier to plan while their therapist, medical provider, family and friends are in the same town or county.

“We will serve the entire state, since psychiatric beds are at a premium, but the goal is to serve the community first and foremost, meaning Eastern Oregon as a whole,” she said.



Image courtesy of Cheryl McIntosh, DONE, LLC

The patient lounge at the new Lifeways Aspen Springs Psychiatric Hospital provides a communal space for patients at the facility.