

State v. Nyema, 249 N.J. 509 (2022)

In State v. Nyema, the New Jersey Supreme Court issued a unanimous ruling dealing with the necessary level of suspicion needed to justify a warrantless stop of a vehicle and when such a stop would be improper without more. Here, the Court established that an investigative stop of a vehicle would be unconstitutional if the only description of the suspects the officer has is their race and sex. In other words, a description of the suspects that only accounts for their race and sex would not be enough to establish the requisite reasonable and articulable suspicion needed to justify a warrantless stop of a vehicle.

Shortly after midnight on May 7, 2011, the Hamilton Township Police Department received word about an armed robbery that had just occurred at a local 7-Eleven. The suspects were described “as two Black Males, one with a handgun.” An officer in the area responded and began to shine a spotlight into cars that appeared to be coming from the direction of the 7-Eleven in an attempt to find drivers who matched the description given. The first car at a car and observed a male and a female display annoyance at the bright light and therefore, he did not attempt to stop them. He then shined his spotlight at a second car traveling away from the store and observed three black men in the vehicle, none of whom apparently reacted to the light.

Subsequent to this observation, Horan initiated a motor vehicle stop. Driving the vehicle was Tyrone Miller, in the front passenger seat was Peter Nyema and in the rear passenger seat was Jamar Myers. Dispatch reported that the vehicle was stolen, and all three men were arrested. The officer then searched the car and located dark clothing and money in the passenger compartment and a handgun wrapped in a bandana under the front hood.

The three men were each charged with first-degree robbery, among other charges. Nyema and Myers moved to suppress the evidence seized from the traffic stop. The trial court granted

the motion with respect to the handgun but denied the motion with respect to the clothing and money, finding that Horan had reasonable and articulable suspicion to initiate the traffic stop. He noted that “the racial makeup of the occupants of the vehicle, three black males traveling away from the scene was the reasonable and typical suspicion for the officer to ultimately pull this car over.” The trial court reasoned that the traffic stop was close in time and physical proximity to the location of the robbery, that the three men matched the racial makeup of the apparent perpetrators and gave no response to the light being shined on them.

Following this, Myers plead guilty to first-degree robbery, but appealed the trial court’s decision declining to suppress the clothing and money found in the glove compartment. He argued that the motion to suppress should have been granted because Horan lacked reasonable and articulable suspicion to initiate the traffic stop. The Appellate Division rejected his appeal, affirming the trial court’s denial. The appellate court concluded that the traffic stop was not based solely on the race of the men, but also upon the vehicle being spotted a short distance from the 7-Eleven when few cars were on the road.

Nyema, on the other hand, proceeded to trial. Following the conclusion of the State’s case-in-chief, Nyema entered an open guilty plea to first-degree robbery and sought to challenge the trial court’s denial of the motion to suppress the clothing and money. Although Myers was not successful in his appeal, a different panel of the Appellate Division agreed with Nyema and reversed the trial court’s ruling, finding “[k]nowledge of the race and gender of a criminal suspect, without more, is insufficient suspicion to effectuate a seizure.” The Appellate Division also concluded that the alleged lack of response to the spotlight by the men didn’t amount to much as Moran’s observation was for 2 seconds or less. Additionally, the lack of clarity as to the timing of the robbery rendered the proximity of the vehicle to the 7-Eleven nearly irrelevant.

Following the Nyema Appellate decision, the State petitioned the New Jersey Supreme Court for certification. The Court granted cert. Myers then moved for reconsideration of his petition for certification. The New Jersey Supreme Court granted the motion and consolidated the cases.

The issue in this case is whether the police had reasonable and articulable suspicion to justify the investigative stop of the vehicle Nyema and Myers were passengers in. Organizations such as the ACLU argued that if the Court allowed such a vague description to justify stopping any black person, they are inviting widespread racial profiling. In a majority opinion by Justice Pierre-Louis, the Supreme Court of New Jersey held that a description of suspects in a robbery that had just occurred, limited to race and sex, does not provide reasonable and articulable suspicion for an investigative stop of a vehicle occupied by persons of the same race and sex.

The majority's opinion was grounded in the protection citizens are granted both in the United States Constitution and New Jersey state constitution against unreasonable searches and seizures. To that end, searches conducted without a warrant are presumptively invalid. A warrantless investigative stop is only justified if based on specific and articulable facts which, taken together with rational inferences from those facts, give rise to a reasonable suspicion of criminal activity. While reasonable suspicion is a less demanding standard than probable cause, inarticulate hunches will not suffice. A court's determination of whether an officer had reasonable suspicion is a highly fact intensive inquiry which evaluates the totality of the circumstances and balances the state's interest in effective law enforcement against the individual's right to be protected from unwarranted police intrusions.

The court noted that past New Jersey Supreme Court precedent had established that race and gender alone are not specific and articulable facts sufficient to establish the reasonable,

particularized suspicion needed for an investigatory stop of a suspect. Additionally, precedent had also established that nervous behavior, or furtive movements, without more, is also insufficient. Similarly, the court noted that a lack of eye contact with a police officer had also been established as insufficient to meet the standard.

Applying these legal principles to the facts of this case, the court found that Sergeant Horan did not have a reasonable and articulable suspicion to justify the motor vehicle stop. The description that Horan had of the suspects was limited only to their race and sex and lacked any other discrete factors or additional physical description. The court concluded that such a generic description that encompasses each and every man belonging to a particular race cannot, without more, does not meet the constitutional threshold of individualized reasonable suspicion.

The court determined that the suspects' lack of reaction to the spotlight could be characterized as nervous behavior. As explained earlier, nervous behavior or a lack of eye contact cannot amount to reasonable suspicion. The court also explained that people exhibit a wide range of behavior for varying reasons while in police presence.

The alleged proximity of the stop in time and place to the robbery did not provide reasonable and articulable suspicion. The exact timing of the robbery, in the court's view, was uncertain. Additionally, the 7-Eleven was located near a major interstate highway. Thus, any assertion as to time and space proximity was tenuous and did not add much.

Finally, the court explained that a combination of non-specific and non-individualized factors that were present in this case could not be combined to create reasonable and articulable suspicion under the totality of the circumstance. The court analogized this as adding zero to zero – the total remains zero. The Court affirmed the appellate division's decision in Nyema's case

and reversed the appellate division's decision in Myers's case and remanded his matter back to the trial court for further proceedings. There were no dissenting or concurring opinions.