

6.1: TRAFFIC STOPS and DWI

INTRODUCTION

To legally pull over a vehicle in NYS, the police need probable cause that there is a violation of the Vehicle and Traffic law, or reasonable suspicion that the driver or occupants of the vehicle have committed, are committing, or are about to commit a crime. The U.S. Supreme Court in *Whren v. United States*, 517 US 806 (1996) held:

An automobile stop is thus subject to the constitutional imperative that it not be unreasonable under the circumstances. As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.

The New York Court of Appeals in *People v. Robinson*, 97 NY2d 341 (2001) adopted the ruling in *Whren* holding:

We hold that where a police officer has probable cause to believe that the driver of an automobile has committed a traffic violation, a stop does not violate article I, § 12 of the New York State Constitution. In making that determination of probable cause, neither the primary motivation of the officer nor a determination of what a reasonable traffic officer would have done under the circumstances is relevant.

The Court of Appeals went on to say:

We noted that “police stops of automobiles in this State are legal only pursuant to routine, nonpretextual traffic checks to enforce traffic regulations or when there exists at least a reasonable suspicion that the driver or occupants of the vehicle have committed, are committing, or are about to commit a crime” (*id.*, at 753). However, we explained what we meant by pretextual when we further noted that “there were no objective safeguards circumscribing the exercise of police discretion” and that if such stops “were permissible and motorists could in fact be pulled over at an individual police officer’s discretion based upon the mere right to request information, a Pandora’s box of pretextual police stops would be opened” (*id.*, at 758, 759). Central to Spencer’s holding was the absence of an objective standard for stopping a vehicle. Thus, a police officer could contrive a reason to stop a vehicle merely to make an inquiry. However, an objective standard is present here—the Vehicle and Traffic Law.

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