

ADA ELLIOTT - DWI (ANONYMOUS TIP)

In Dona Ana County deputies stopped a vehicle based upon an anonymous tip of a possible drunk driver who was driving a grey van, towing a red GEO, and driving erratically. The driver was charged with Aggravated DWI. No erratic driving was observed by the deputies.

Is this a valid stop? Courts are reluctant to uphold a stop based upon an anonymous tip alone because of the difficulty posed in evaluating credibility or reliability. Fortunately, the Court of Appeals has given us guidance by establishing three criterion to evaluate an anonymous tip when a drunk driver is involved. The three criterion, as applied in this case, follow:

Did the anonymous tip contain sufficient information to identify the suspect vehicle?

Yes. Dispatch gave, and the deputies received, sufficient information to easily find the vehicle. Not only was there a sufficient description of the vehicle, but there was also detailed information about its location, direction of travel, and erratic driving. Though the facts are few, they were sufficient for the deputies to identify the correct vehicle and make the stop.

Was the anonymous tip sufficiently reliable under the circumstances?

Yes. A tip is far more reliable if it can be shown there was personal observation. How do we show personal observation? By providing detailed information. Based upon the information given here, one could infer that the caller was an eyewitness.

Did the possible danger to public safety present an exigent circumstance for the deputies to conduct an investigatory stop?

Yes. A moving car on a public roadway, possibly driven by a drunk driver, presents an exigent circumstance. The investigatory stop, based on these criterion, was good.

Dispatch operators and officers are encouraged to record the names of concerned callers and obtain as many facts as possible to determine the credibility and reliability of each caller. State v. Contreras (2003).

