

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE CITY OF DEARBORN,

Plaintiff-Appellant,

v

MOHAMMED CHAHINE and SUMNER McNEAL,

Defendants-Appellees.

UNPUBLISHED

January 13, 1998

No. 185114

Wayne Circuit Court

LC No. 94-406474 AR

Before: Gage, P.J., and Murphy and Reilly, JJ.

MEMORANDUM.

By leave granted, plaintiff appeals a Wayne Circuit Court order, reversing defendants' district court convictions for resisting and obstructing a police officer in the performance of duty, under a local ordinance corresponding to MCL 750.479; MSA 28.747, on grounds that the stop of defendants' motor vehicle and their subsequent detention was a violation of their Fourth Amendment rights. We reverse.

Defendants' vehicle initially came to the attention of the arresting officer when it was observed stopped in such fashion as to straddle two parking spaces at a convenience store, marked as reserved for handicappers pursuant to §674(1)(s) of the Vehicle Code, a civil infraction. Although the vehicle was unoccupied, the engine was idling, and this constitutes one form of "parking" for purposes of the cited Vehicle Code section. *Bensinger v Happy Land Shows, Inc*, 44 Mich App 696; 205 NW2d 919 (1973). Accordingly, the initial stop of the vehicle was based on probable cause, whatever may have actually motivated the officer in deciding to require the driver to stop the vehicle. *Whren v United States*, 517 US ____; 116 S Ct 1769; 135 L Ed 2d 89 (1996).

Based on observations made before the stop was actually effectuated, the officers involved had ample justification for being concerned for their safety, and thus for subjecting the driver and passengers to a search for weapons. The officers had the right to order the driver and passengers to exit the vehicle to facilitate this search. *Maryland v Wilson*, 519 US ____; 117 S Ct ____; 137 L Ed 2d 41 (1997). Defendants' noncooperation and interference with and obstruction of the officers was therefore not privileged as resistance to unlawful conduct.

The decision of the circuit court is reversed, and defendants' district court convictions are reinstated. This cause is remanded to the 19th District Court for execution of sentence. We do not retain jurisdiction.

/s/ Hilda R. Gage

/s/ William P. Murphy

/s/ Maureen Pulte Reilly