

Winston Secures Reversal of Conviction Based on a Pretext Stop

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A Winston & Strawn team won an appeal that affirmed the Fourth Amendment's protection against unreasonable searches and seizures—helping to safeguard private citizens from illegal police intrusions.

Our client was walking home late at night when a police officer spotted him and followed him down a narrow alley. As the officer got closer to our client, the officer claimed that he saw our client holding a cup filled with unidentifiable liquid. According to the officer, he then decided to approach our client to investigate whether he was violating a local ordinance that prohibits carrying an open container of alcohol in a public way. The officer then cut off our client with his police SUV and began questioning him about the contents of the cup. Later, after the officer exited his vehicle to issue a citation, he decided to frisk our client, at which time he discovered an unlicensed firearm.

Our client was charged with unlawful possession of a firearm. Prior to trial, our client moved to suppress the firearm, arguing that the officer's conduct violated his Fourth Amendment rights. The trial court denied his motion. After a bench trial, the court convicted our client and sentenced him to one year in prison and one year of mandatory supervised release.

On appeal, the Winston team argued that our client's conviction should be reversed for two reasons. First, Winston argued that the officer's detention of our client was an unconstitutional seizure because there was no reasonable suspicion that he was committing a crime at the start of the stop. Second, Winston argued that the officer's frisk was an unconstitutional search because there was no reason to think that our client was armed and dangerous when the pat down began.

The appellate court agreed on both grounds, reversing our client's conviction and vacating his sentence. In its order, the court repeatedly referenced Winston's oral argument and briefs.

"It is easy to get caught up in the result of what law enforcement finds when they stop and search people, but when a search violates a person's basic rights, then our collective right to be free from unlawful stops and seizures is undermined," said Chicago Associate Sean Suber.

Chicago Associate **Sean Suber** argued the case, and Chicago Associate **James Randall** led the briefing.

This matter is part of Winston & Strawn's Racial Justice and Equity CEASE Initiative. Learn more [here](#).

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