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The crime of **Escape** requires that the offender flee from **lawful detention**. The Indiana Court of Appeals recently addressed the "detention" aspect of this requirement in Mesarosh v. State, 801 N.E.2d 200 (Ind. Ct. App. 2004). A deputy town marshal observed the defendant in his truck. Knowing that a court had issued a writ of body attachment for him, the marshal initiated a traffic stop. He informed the defendant that there was a warrant issued for his arrest and that the marshal was going to take him into custody at that time and take him to jail. The marshal advised him that he was under arrest but agreed to let him drop off his passenger and take his truck home first. The marshal followed the defendant as he dropped off his passenger and parked his truck. However, when the defendant exited his truck, he ran from the marshal and was not arrested until several months later.

This evidence did not support an Escape conviction. The Court of Appeals concluded that when the marshal initiated the traffic stop and informed the defendant that he would be taking him to jail pursuant to the body attachment, the defendant's freedom of movement was restricted such that he was lawfully detained. However, *that detention ended* when the marshal allowed the defendant to leave the scene of detention driving his truck. Thus, the defendant was not lawfully detained when he fled. The court did note, however, that the evidence would support a conviction for Failure to Return to Lawful Detention.

Another recent case examined a stop for a **seatbelt violation**, with the police seeking **consent to search** the vehicle. In Clark v. State, 804 N.E.2d 196 (Ind. Ct. App. 2004), a police officer observed the defendant driving without wearing his seatbelt. The officer stopped the car and gave the defendant a warning ticket. He then asked the defendant if he had anything illegal in the car. The defendant responded that he did not. The officer then asked if he could take "a quick look in the car." The defendant said he could "go ahead and look." A plastic bag containing marijuana was found in the glove box. The Court of Appeals said this evidence should be suppressed.

It is the law that a traffic stop based on the failure of either the driver or passenger to wear a seatbelt does not, *standing alone*, provide reasonable suspicion for the police to unilaterally expand their investigation and "fish" for evidence of other possible crimes. The officer may expand his investigation subsequent to the stop *only* if other circumstances arise after the stop which *independently* provide the officer with reasonable suspicion of other crimes.

In the court's view, aside from the seatbelt violation, there were no facts known to the officer that would have reasonably led him to believe that criminal activity had occurred or was about to occur when he asked for consent to search the car. Therefore, it held that during and after a seatbelt stop, without independent, reasonable suspicion of another crime, an officer is *prohibited from seeking* consent to search the vehicle.

Finally, the Court of Appeals was asked to decide in State v. Necessary, 800 N.E.2d 667 (Ind. Ct. App. 2003), whether the *full* ***Miranda*** **warnings** must be given to a person before police administer **field sobriety tests** (it has previously been determined that police need not advise a person that he has the right to consult with an attorney in such a situation). FSTs are searches, and our Supreme Court has ruled that persons in custody must be given *Miranda* warnings before he can validly consent to a search. But this rule applies only when a person consents to an *unlimited* search. FSTs are qualitatively different. They are non-invasive and take little time to administer. More importantly, they are narrow in scope and are unlikely to reveal incriminating evidence other than impairment. Thus, *none* of the *Miranda* warnings need be given before the police administer FSTs.

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