

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2006-CA-001034-DG

BRANDON TODD SALMON

APPELLANT

v. ON DISCRETIONARY REVIEW  
FROM CALLOWAY CIRCUIT COURT  
HONORABLE DENNIS R. FOUST, JUDGE  
ACTION NO. 05-XX-00008

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: DIXON AND VANMETER, JUDGES; GRAVES,<sup>1</sup> SENIOR JUDGE.

VANMETER, JUDGE: As a general rule, the use of vehicle checkpoints for the purpose of checking licenses and vehicle registrations does not violate the Fourth Amendment's prohibition against unreasonable searches and seizures. The issue we must resolve in this case is whether the Calloway Circuit Court erred in upholding a stop made at a vehicle

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<sup>1</sup> Senior Judge John W. Graves, sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

checkpoint established for the purpose of enforcing a local “city sticker” ordinance. We hold that it did not, and we therefore affirm.

In the early morning hours of June 15, 2005, Brandon Todd Salmon was stopped at a checkpoint established by the Murray City Police Department. The purpose of the checkpoint was to enforce compliance with Murray's local ordinance requiring a sticker for vehicles owned by people who either live or work in the City of Murray. As a result of the stop, Salmon was charged with DUI.<sup>2</sup> In the Calloway District Court, Salmon filed a motion to suppress based on his argument that the checkpoint stop was unconstitutional. The trial court denied the motion and Salmon entered a conditional guilty plea. On appeal, the Calloway Circuit Court affirmed. We granted discretionary review.

As an initial matter, we note that Salmon's brief contains no citations to the record on appeal and no indication of where any proceedings or testimony appear on the one audiotape which is in the record, despite the requirements of CR<sup>3</sup> 76.12(4)(c)(iv). The Commonwealth argues that we should dismiss the appeal on this basis. While this sanction is permissible under CR 76.12(8)(a), we elect instead to consider this appeal solely on the contents of the parties' briefs. *See Robbins v. Robbins*, 849 S.W.2d 571, 572 (Ky.App. 1993). We also note that in such a situation, a silent record is presumed to support the decision of the trial court. *See Commonwealth, Dep't of Highways v. Richardson*, 424 S.W.2d 601, 604 (Ky. 1967) (stating the “basic principle that an

<sup>2</sup>Kentucky Revised Statutes (“KRS”) 189A.010.

<sup>3</sup>Kentucky Rules of Civil Procedure.

appellant has the obligation and burden to establish trial error upon appellate review. When a record is incomplete and partially incomprehensible, we may indulge the presumption of correctness of the judgment upon review”).

In denying Salmon's motion to suppress evidence gathered at the stop, the Calloway District Court found that the checkpoint “was not held for the purpose of 'general crime control', but rather for the lawful purpose of checking for compliance with the city-sticker ordinance.” The trial court further found that “the checkpoint was conducted in a reasonable manner in conformity with *Commonwealth v. Buchanon*, 122 S.W.3d 565 (Ky. 2003).”

Salmon's argument on appeal is that the use of a checkpoint for the purpose of checking compliance with a city sticker ordinance violates *City of Indianapolis v. Edmond*, 531 U.S. 32, 42, 121 S.Ct. 447, 454, 148 L.Ed.2d 333 (2000), in which the Supreme Court held that drug interdiction checkpoints are violative of the Fourth Amendment since the purpose of such checkpoints is “the general interest in crime control.” We disagree, given that a checkpoint set up with the purpose of checking all traffic for driver's licenses and vehicle registrations is permissible. *Edmond*, 531 U.S. at 39, 121 S.Ct. at 453 (citing *Delaware v. Prouse*, 440 U.S. 648, 663, 99 S.Ct. 1391, 1401, 59 L.Ed.2d 660 (1979)).

In this instance, the City of Murray has determined to require licenses for vehicles owned by people who either live or work within Murray city limits. Our view is that the checkpoint stop below was more akin to enforcing vehicle registration

compliance than to promoting “the general interest in crime control.” We note that Salmon does not argue that the local ordinance is invalid, or that the police did not stop all traffic at the checkpoint in question. As such, the checkpoint did not violate the Fourth Amendment's prohibition against unreasonable searches and seizures.

The Calloway Circuit Court's order is affirmed.

ALL CONCUR.

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