



Police Law Bulletin



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UNITED STATES SUPREME COURT



Automobile Exception Does Not Permit the Warrantless Entry of a Home or Its Curtilage

Collins v. Virginia, No. 16-1027 (May 29, 2018).

Officer McCall of the Albemarle County Police Department in Virginia saw the driver of an orange and black motorcycle with an extended frame commit a traffic infraction. The driver eluded Officer McCall's attempt to stop him. A few weeks later, Officer Rhodes of the same department saw an orange and black motorcycle traveling well over the speed limit, but the driver got away from him too. The officers compared notes and concluded that the two incidents involved the same driver. Upon further investigation, the officers learned that the motorcycle was likely stolen and in the possession of Ryan Collins. After discovering photographs on Collins' Facebook profile that featured an orange and black motorcycle parked at the top of the driveway of a house, Officer Rhodes tracked down the address of the house, drove there, and parked on the street. From his position, Officer Rhodes saw what appeared to be a motorcycle with an extended frame covered with a white tarp, parked at the same angle and in the same location on the driveway as in the Facebook photograph. Officer Rhodes, without a warrant, walked up the driveway to where the motorcycle was parked. Officer Rhodes pulled off the tarp, and ran a search of the license plate and VIN, which confirmed that the motorcycle was stolen. Officer Rhodes then took a photograph of the motorcycle, put the tarp back on, and returned to his car to wait for Collins. Shortly thereafter, Collins returned home. Officer Rhodes walked up to the front door of the house and knocked. Collins answered, agreed to speak with Officer Rhodes, and admitted that the motorcycle was his and that he had bought it without title. Officer Rhodes then arrested Collins for receiving stolen property.

Defendant filed a motion to suppress the evidence that Officer Rhodes had obtained as a result of the warrantless search of the motorcycle. The trial court denied the motion and Collins was convicted. The Court of Appeals and the Supreme Court of Virginia both affirmed. The United States Supreme Court granted review and reversed.

Curtilage - the area immediately surrounding and associated with the home – is considered part of the home itself for Fourth Amendment purposes. When a law enforcement officer physically intrudes on the curtilage to gather evidence, a search within the meaning of the Fourth Amendment has occurred. Having concluded that the driveway where Collins’ motorcycle was parked and subsequently searched was curtilage, the question before the Court was whether the automobile exception could be used to justify the search.

Contrary to Virginia’s claim, the Court found that nothing in its existing case law suggests that the automobile exception is a categorical one that permits the warrantless search of a vehicle any-time, anywhere, including in a home or curtilage. Further, the Court declined to expand the rule in this manner believing that such an expansion would undermine Fourth Amendment protection afforded to the home and its curtilage. The Court noted that it has similarly declined to expand the scope of other exceptions to the warrant requirement. Thus, just as an officer must have a lawful right of access to any contraband he discovers in plain view in order to seize it without a warrant—and just as an officer must have a lawful right of access in order to arrest a person in his home—so, too, an officer must have a lawful right of access to a vehicle in order to search it pursuant to the automobile exception.

Therefore, the United States Supreme Court reversed the judgement of the Supreme Court of Virginia and returned the case to the trial court to determine whether Officer Rhodes warrantless intrusion on the curtilage of Collins’ house may have been reasonable on a different basis, such as the exigent circumstances exception to the warrant requirement.



NORTH CAROLINA COURT OF APPEALS

Officers Properly Searched Vehicle Incident to Arrest

State v. Martinez, No. COA16-650 (December 20, 2016)

On September 27, 2014, Winston-Salem Police Officer Saintsing observed a Chevrolet pickup truck speeding 48 mph in a 35 mph zone. The officer performed a U-turn and followed the truck into a gas station parking lot. Defendant exited from the driver’s side of the truck and another male exited from the passenger side. Both began walking toward the convenience store when Officer Saintsing activated his blue lights. Officer Saintsing approached Defendant and instructed him to get back into the vehicle. Defendant refused the officer’s command, and continued toward the convenience store. After at least one subsequent command, Defendant returned to the location of the vehicle and threw the keys underneath the truck. Pursuant to the

officer's commands, the passenger attempted to re-enter the vehicle, but was unable to because the door was locked.

Defendant denied being the driver of the truck, and stated he did not know who owned it. Officer Saintsing asked Defendant why the truck was not parked within a marked parking space, and Defendant stated "he just kind of pulled in." Detecting a strong odor of alcohol on Defendant, Officer Saintsing contacted other officers for assistance. Officers Gardner and Willey arrived, conducted a driving while impaired investigation, and formed the opinion that Defendant was impaired. Defendant was unable to produce a driver's license. A mobile computer search indicated Defendant's license had been suspended for a prior conviction of driving while impaired.

Defendant was arrested for driving while impaired, handcuffed and placed in the rear of one of the patrol cars at least 30 feet from the truck. Officer Gardner instructed Officer Willey to search the interior of Defendant's vehicle incident to the arrest. Officer Gardner testified he had conducted between twenty and thirty driving while impaired investigations and that at least fifty percent of these cases involved the discovery of evidence associated with driving while impaired inside the vehicle, such as open containers of alcohol. Officer Willey discovered six beer bottles in the rear seat area of the vehicle, some of which were opened. A loaded .22 caliber rifle was discovered, in a cocked position, halfway underneath the rear seat.

Prior to trial, Defendant filed a motion to suppress the search. The trial court denied the motion. The matter proceeded to trial. Defendant stipulated he had been convicted of felonious assault with a deadly weapon with intent to kill in 2010. The jury convicted Defendant of possession of a firearm by a felon, and Defendant was sentenced to 17 to 30 months in prison. On appeal, Defendant argued that his motion to suppress should have been granted because the officers lacked particularized reasons to believe evidence of impaired driving would be found inside the vehicle. The Court of Appeals disagreed.

It is a basic constitutional rule that searches conducted outside the judicial process, without prior approval by a judge or magistrate, are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well delineated exceptions. Among the exceptions to the warrant requirement is a search incident to a lawful arrest. In *Arizona v. Gant*, the Supreme Court established a rule allowing police to search a vehicle incident to a recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search (which the Court noted should rarely occur) or it is reasonable to believe the vehicle contains evidence of the offense of arrest. When these justifications are absent, a search of an arrestee's vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies.

Here, Defendant denied ownership, possession, and operation of the vehicle both verbally and by throwing the keys under the vehicle. Based upon the totality of the circumstances, including the strong odor of alcohol on Defendant, Defendant's effort to hide the keys and refusal to unlock the vehicle, and the officers' training and experience with regard to driving while impaired investigations, the Court of Appeals held that the trial court properly concluded the officers

reasonably believed the vehicle could contain evidence of the offense for which Defendant had been arrested.