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North Carolina Court of Appeals



Incident to Arrest Exception to the Warrant Requirement Allowed Officers to Search the Vehicle Involved in an Accident to Find the Identification of the Purported Driver

State v. Julius, No. COA20-548 (Mar. 1, 2022). On May 20, 2018, a McDowell County Sheriff's deputy and State Highway Patrol trooper responded to a single-car accident. At the time of the crash, the defendant was the passenger, and her acquaintance, Kyle, was driving the vehicle with the defendant's permission. The SUV was owned by defendant's parents, and had come to rest in a drainage ditch on the side of the road, with the driver's side partially submerged in water.

At least three witnesses at the scene told the officers the driver fled and walked into nearby woods because he had outstanding warrants. The defendant stood alone, away from those gathered on the side of the road, with a pink backpack on the ground next to her. She provided the trooper with her identification which she retrieved from her wallet inside of her backpack. She told the trooper that she knew the driver as "Kyle," but that she did not know his full or last name.

The trooper searched the SUV to look for Kyle's driver's license or ID. The trooper limited his search to those areas and containers which could reasonably hold the alleged driver's identification. The officer found a black and green Nike bag on the passenger side floorboard in which he discovered a black box that contained two cell phones, a scale, and two large bags of a clear crystal-like substance, which was later determined to be methamphetamine.

The officers arrested the defendant and then searched her pink backpack. Inside of the defendant's bag, the officers found a glass smoking pipe, five cell phones, a handgun, a notebook, \$1,785 in cash, and a clear container holding several bags of a white crystal-like substance, one of which contained one tenth of an ounce of methamphetamine.

Defense counsel filed a pretrial motion to suppress the evidence found in both bags, alleging the search of the vehicle violated the defendant's Fourth Amendment protection from unreasonable searches and seizures. The trial court concluded the warrantless search was constitutional and denied the defendant's motion. The defendant pled guilty to possession of methamphetamine and was convicted of trafficking in methamphetamine by possession by a jury's verdict. The defendant appealed.

On appeal, the defendant argued that the trial court erred in denying her motion to suppress evidence found in a warrantless search of her parents' vehicle without sufficient probable cause. The Court of Appeals disagreed. It is well-established that searches conducted without a warrant are per se unreasonable under the Fourth Amendment, subject only to a few well-delineated exceptions. One of these exceptions is "search incident to arrest" which allows a warrantless search of a vehicle when an occupant of the vehicle has been arrested and officers have reasonable suspicion that evidence of the crime of arrest might be found in the vehicle. Searches incident to arrest typically occur after the arrest, but may occur before the arrest as long as probable cause to arrest existed prior to the search and it is clear that the evidence seized was in no way necessary to establish the probable cause.

In the case at hand, the Court of Appeals concluded that officers had probable cause to arrest the driver of the vehicle for hit and run, in addition to the outstanding warrants. Officers received a dispatch call and responded to the scene of a vehicle crash. Defendant denied having driven the vehicle, claimed to have been a passenger only, the driver was a man named "Kyle," and that she did not know his full or last name. Multiple witnesses also asserted that the driver had fled the scene due to outstanding warrants.

Further, the Court of Appeals concluded that there was reasonable suspicion to believe that evidence related to those crimes i.e. the driver's identity, would be found within the vehicle. The Court reasoned that Kyle's identification may not have been inside the vehicle, but there was no other way for the officers to try to find information to identify the driver if the passenger and other witnesses did not know or would not provide his full name, and the identification of the purported driver may have reasonably been determined from looking inside the wrecked vehicle. The Court thus held that the trial court properly denied the defendant's motion to suppress.



Fourth Circuit Court of Appeals



Automobile Exception Justified Initial Search of Car and Search of Car Trunk Two Weeks Later

U.S. v. Caldwell, 7 F.4th 191 (Aug. 3, 2021). On December 9, 2016, two men armed with revolvers, and wearing dark clothing, masks, and gloves entered a Wells Fargo bank in Charlotte. They stole nearly \$5800. in cash from the tellers before fleeing in a car. Two GPS tracking devices were embedded in the stolen cash. Officers tracked the GPS signal to an address within a couple of miles of the bank, where the defendants exited their vehicle. One of the officers heard rustling in the woods and saw three individuals running away. The officers began to pursue. One of the defendants, later identified as Anthony Caldwell, was found hidden along a fence amid vines and weeds. A black bag containing nearly all of the missing cash as well as one of the GPS trackers was found underneath him. Caldwell was immediately arrested. Arrest warrants were later issued for the other two defendants, Michael Cole and Rahshie Mitchell, after DNA evidence linked them to the robbery.

Shortly after arresting Caldwell, officers found the vehicle nearby. In plain view, on the back seat, were a black jacket, a North Carolina license plate, and a black revolver. An invalid temporary license plate was on the rear of the car. Officers located a black hooded sweatshirt and glove along the fence, as well as a ski mask next to the vehicle. They also found two loose \$20 bills, a cash wrapper that would go around a stack of bills, and the other GPS tracker in the front yard of the address where the suspects had stopped and exited their vehicle.

The officers towed the vehicle to the law enforcement center, where they searched it after obtaining a warrant. A search of the passenger compartment revealed a black jacket, a revolver, a black ski mask, a black toboggan, and black gloves. However, officers did not search the vehicle's trunk because the car battery was dead, rendering the trunk opening mechanism inoperable. Police then moved the vehicle to an impound lot. Nearly two weeks later, detectives jump-started the car's battery and opened the trunk. The trunk contained a revolver, black gloves and a black skullcap.

Caldwell was indicted by a federal grand jury charging him with conspiracy to commit bank robbery, bank robbery, possession of a firearm in furtherance of a crime of violence, and possession of a firearm by a convicted felon. Caldwell pleaded not guilty. Prior to trial, Caldwell filed a motion to suppress all evidence found in the vehicle, arguing that the initial search was invalid because police neglected to follow proper warrant procedures, and that the search of the trunk was unlawful because the warrant had expired and no exigent circumstances existed to justify the search. The district court denied the motion. It found both searches were justified by

the automobile exception, and that the trunk search was alternatively justified as an inventory search.

On appeal, the Fourth Circuit agreed that the searches were justified under the automobile exception. Officers were led to the scene by the bank's GPS trackers, and the items in plain view gave police probable cause to search the vehicle without a search warrant. The two-week delay before the car's trunk was searched did not undermine probable cause: "When a warrantless search of a vehicle could have been conducted on the scene pursuant to the automobile exception, a warrantless search is also justified after the vehicle has been impounded and immobilized as long as probable cause still exists." While the passage of time is a factor in the probable cause analysis, here, probable cause still existed to search the trunk (even without a warrant) because officers were previously unable to open the trunk and had not yet located the second firearm involved in the robberies. The district court's suppression ruling was therefore affirmed.