



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 214
March 16, 1997

ORDERING A PASSENGER OUT OF A
LAWFULLY STOPPED VEHICLE

Reference: Maryland
 v.
 Jerry Lee Wilson

United States Supreme Court
No. 95-1268
February 19, 1997

FACTS:

A State Trooper observed a passenger car driving in excess of the posted speed limit; the car had no regular license tag. There was a torn piece of paper reading "Enterprise Rent-a-Car" dangling from its rear bumper. The Trooper activated his lights and siren to signal the car to pull over, but it continued on for another one-and-a-half miles before finally stopping.

During the pursuit, the Trooper noticed there were three occupants in the car and two of them had turned to look at him several times, repeatedly ducking below sight level and then reappearing. When the car stopped, the driver got out and approached the Trooper. The driver was trembling and appeared nervous, but he had a valid driver's license. The driver went back to the car to get the rental agreement. The Trooper noticed that the front seat passenger, Wilson, was sweating and appeared extremely nervous. The Trooper ordered Wilson out of the vehicle.

When Wilson got out of the car, the Trooper observed a quantity of crack cocaine fall to the ground. Wilson was arrested and charged with possession of cocaine with intent to distribute. Wilson argued that the Trooper's ordering him out of the car constituted an unreasonable seizure under the Fourth Amendment.

ISSUE:

Can an officer making a traffic stop order passengers to get out of the car pending completion of the stop?

HELD: Yes.

REASONING:

1. In Pennsylvania v. Mimms, 434 U.S. 106 (1977) [no bulletin], the United States Supreme Court held that a police officer may as a matter of course order the driver of a lawfully stopped car to exit his vehicle. (emphasis added)

2. Danger to an officer from a traffic stop is likely to be greater when there are passengers in addition to the driver in the stopped vehicle.

3. While there is not the same basis for ordering the passengers out of the car as there is for ordering the driver out, the additional intrusion on the passenger is minimal.

NOTES:

Left unanswered in this case is whether an officer may forcibly detain a passenger for the entire duration of the stop. The justification for allowing an officer to order drivers and passengers out of lawfully stopped vehicles is a "precautionary measure" to protect the officer's safety.

In this case, the Supreme Court also cited Terry v. Ohio, 392 U.S. 1 (1968), regarding investigatory seizures, as well as Michigan v. Summers, 452 U.S. 692 (1981) [see Legal Bulletin No.49], regarding pre-arrest seizure of person while executing a warrant.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section I, "Stop and Frisk," and Section K, "Plain View," of your Contents and Text. File Legal Bulletin No. 214 numerically under Section R of the manual.