



DEPARTMENT OF PUBLIC SAFETY
TRAINING ACADEMY

LEGAL BULLETIN NO. 50
July 29, 1981

SEARCH OF VEHICLE INCIDENT
TO ARREST

Reference: State of New York
v.
Roger BELTON

U. S. Supreme Court
~~Opinion No. 80-328~~
453 US 454
July 1, 1981

FACTS:

A speeding vehicle passed an unmarked police car. The officer gave pursuit and stopped the vehicle occupied by four persons, none of whom owned the car. The police officer smelled burnt marijuana and saw on the floor of the car an envelope marked "Supergold" which he associated with marijuana. He ordered all of the occupants out of the car and placed them under arrest for possession of marijuana. After searching the four men, the officer searched the passenger compartment of the car. He found a black leather jacket belonging to BELTON on the back seat. The officer unzipped one of the jacket pockets and discovered some cocaine. BELTON was charged and convicted for possession of the cocaine.

ISSUE:

When the occupant of an automobile is subjected to a lawful custodial arrest, does the constitutionally permissible scope of a search incident to his arrest include the passenger compartment of the automobile in which he was riding?

HELD: Yes.

REASONING:

1. A lawful custodial arrest creates a situation which justifies the contemporaneous search without a warrant of the person arrested and of the immediately surrounding area (emphasis added).
2. Articles inside the relatively narrow compass of the passenger compartment of an automobile are in fact generally, even if not inevitably, within the area into which an arrestee might reach in order to grab a weapon or evidentiary item.
3. When a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as contemporaneous incident of that arrest, search the passenger compartment of that automobile.
4. The police may also examine the contents of any containers found within the passenger compartment (emphasis added).

NOTES:

The Court, in a footnote, defines "containers" (Reasoning No. 4 on previous page) as any object, opened or closed, capable of holding another object. It includes glove compartments, consoles, as well as luggage, boxes, bags, clothing and the like. This holding encompasses only the interior of the passenger compartment of an automobile and does not encompass the trunk.

In a comparison case, Robbins v. California, decided the same day, the Supreme Court suppressed evidence found in the trunk of a car. In that case, the State argued the "automobile exception" but the Court felt a warrant should have been obtained. The "incident to arrest" exception was not presented as it was in BELTON.

The Alaska Supreme Court has upheld several incident to arrest searches made of automobiles. See, for example, Daygee v. State (Legal Bulletin No. 10) where drugs were seized; Uptegraft v. State (Legal Bulletin No. 44) where officers found on the rear floor of a vehicle a garment and a gun used in a robbery; and Hinkel v. Anchorage (Legal Bulletin No. 41) where a gun was found in a purse after Hinkel had been secured in the patrol car.

Above cases should not be confused with Daniel v. State (Legal Bulletin No. 19) where the attache case in his vehicle was searched after Daniel was enroute to jail and the State argued the "inventory exception" to the warrant requirement which our court declined to accept.

The U. S. Supreme Court in the BELTON case has given the police and the public a clear guideline on searches of automobiles made incident to arrest. We will have to wait and see how our Supreme Court will rule if presented with other cases involving searches of automobiles made "incident to arrest".