



The United States Supreme Court holds that a partially enclosed top portion of a driveway in which the Defendant's motorcycle was parked was curtilage for purposes of the Fourth Amendment and further holds that the automobile exception to the Fourth Amendment's warrant requirement for searches did not justify the police officer's invasion of curtilage of the Defendant's home



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In *Collins v. Virginia*, ___ U.S. ___, ___ S.Ct. ___, 2018 WL 2402551 (May 29, 2018), the United States Supreme Court granted Defendant/Petitioner Ryan Austin Collins' petition for a writ a certiorari to determine whether the automobile exception to the Fourth Amendment's warrant requirement permitted law enforcement to search a suspect's home or its curtilage in order to search a vehicle parked therein. The Supreme Court held that it did not. The relevant facts are as follows.

Officer Matthew 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 the motorcycle. A few weeks later, Officer David 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 motorcyclist.

Upon further investigation, the officers learned that the motorcycle likely was stolen and was in the possession of Defendant/Petitioner 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. It was later established that Collins' girlfriend lived in the house and that Collins stayed there a few nights per week.

From his parked position on the street, 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, who did not have a warrant, exited his car and walked toward the house. Officer Rhodes stopped to take a photograph of the covered motorcycle from the sidewalk and, then, walked onto the residential property and up to the top of the driveway to where the motorcycle was parked. In order "to investigate further," Officer Rhodes pulled off the tarp, revealing a motorcycle that looked like the one from the speeding incident. Officer Rhodes, then, ran a search of the license plate and vehicle identification numbers that confirmed that the motorcycle was stolen. After gathering this information, Officer Rhodes took a photograph of the uncovered motorcycle, put the tarp back on, left the property, and returned to his car to wait for Collins.

Shortly thereafter, Collins arrived. 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. Accordingly, Officer Rhodes arrested Collins.

A Virginia state grand jury indicted Collins for receiving stolen property. Thereafter, Collins filed a pretrial motion to suppress the evidence that Officer Rhodes had obtained as a result of the warrantless search of the

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motorcycle. Collins argued that Officer Rhodes had trespassed on the curtilage of the house to conduct an investigation in violation of the Fourth Amendment. The trial court denied the motion, and Collins was convicted.

The Court of Appeals of Virginia affirmed. That appellate court assumed that the motorcycle was parked in the curtilage of the home and held that Officer Rhodes had probable cause to believe that the motorcycle under the tarp was the same motorcycle that had evaded him in the past. The appellate court further concluded that Officer Rhodes' actions were lawful under the Fourth Amendment even absent a warrant because numerous exigencies justified both his entry onto the property and his moving the tarp to view the motorcycle and record its identification number.

The Supreme Court of Virginia affirmed the denial of Collins' motion to suppress and his conviction on different reasoning. That court explained that the case was most properly resolved with reference to the Fourth Amendment's automobile exception. Under that framework, the Supreme Court of Virginia held that Officer Rhodes had probable cause to believe that the motorcycle was contraband and that the warrantless search was, therefore, justified.

On certiorari, the United States Supreme Court held that the automobile exception does not permit the warrantless entry into a home or its curtilage in order to search a vehicle therein. The Supreme Court began its opinion by explaining that, in announcing each of the automobile exception's justifications—i.e., the “ready mobility of the automobile” and “the pervasive regulation of vehicles capable of traveling on the public highways—it had emphasized that the rationales applied only to automobiles and not to houses. When these justifications are present, officers may search an automobile without a warrant so long as they have probable cause. Curtilage—the area immediately surrounding and associated with the home—is considered part of the home itself for Fourth Amendment purposes. Therefore, when an officer physically intrudes on the curtilage to gather evidence, a Fourth Amendment search has occurred and is presumptively unreasonable absent a warrant.

Furthermore, the Supreme Court stated that the part of the driveway where Collins' motorcycle was parked and subsequently searched was curtilage. When Officer Rhodes searched the motorcycle, it was parked inside a partially enclosed, top portion of the driveway that abutted the house. Just like the front porch, side garden, or area outside the front window, Collins' enclosure where the motorcycle was parked constituted an area adjacent to the home and to which the activity of home life extends. In other words, it was curtilage.

Because the scope of the automobile exception extends no further than the automobile itself, the exception did not justify Officer Rhodes' invasion of the curtilage. The Supreme Court opined that nothing in its prior opinions suggested that the automobile exception gives an officer the right to enter a home or its curtilage to access a vehicle without a warrant. Such an expansion would both undervalue the core Fourth Amendment protection afforded to the home and its curtilage, and it would “untether” the exception “from the justifications underlying it.” *Riley v. California*, ___ U.S. ___, 134 S. Ct. 2473, 2485 (2014).

Furthermore, the Supreme Court noted that it had 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 that 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, an officer must have a lawful right of access to a vehicle in order to search it pursuant to the automobile exception. To allow otherwise, the Supreme Court held, would “unmoor” the exception from its justifications, would render hollow the core Fourth Amendment protection the Constitution extends to the house and its curtilage, and would transform what was meant to be an exception into a tool with far broader application.

Finally, contrary to the State of Virginia's argument, the Supreme Court held that the automobile exception is not a categorical one that permits the warrantless search of a vehicle anytime, anywhere, including in a home or curtilage. The Supreme Court was also not persuaded by the State of Virginia's proposed bright line rule for an automobile exception that would not permit warrantless entry only of the house itself or another fixed structure, e.g., a garage, inside the curtilage. The Supreme Court explained that it had long been clear that curtilage is afforded constitutional protection and further held that creating a carveout for certain types of curtilage seemed more likely to create confusion than does the uniform application of the Court's decision.

Virginia's rule also rested on a mistaken premise because, according to the Supreme Court, the ability to observe inside curtilage from a lawful vantage point is not the same as the right to enter curtilage without a warrant to search for information not otherwise accessible. And, Virginia's proposed rule automatically would grant constitutional rights to those persons with the financial means to afford residences with garages but would deprive those persons without such resources of any individualized consideration as to whether the areas in which they store their vehicles qualify as curtilage. Accordingly, the Supreme Court held that the automobile exception does not permit the warrantless entry of a home or its curtilage in order to search a vehicle therein.

Collins' victory was not complete however. Rather, the Supreme Court remanded the case for a determination by the state courts as to whether Officer Rhodes' warrantless search on the curtilage of Collins' home may have been reasonable on a different basis, such as the exigent circumstance to the warrant requirement. As such, Collins' conviction may yet be affirmed, but at this point, the State of Virginia may not rely upon the automobile exception to the warrant requirement to validate Officer Rhodes' warrantless search.