LEGAL QUESTIONS ANSWERED

Warrantless Searches of Automobiles Based on Probable Cause?

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Question: The question has come to my attention about searching vehicles that have been removed from the scene and have taken back to the station for a more detailed search.

In both incidents I have questioned, officers have found illegal drugs while at the initial stop location. They then removed the vehicles to the Sheriff's Office Sally port and continued the search, finding more evidence of the crime.

I was once advised that if you remove a vehicle from the scene to a secondary location, you must obtain a warrant to continue your search. Have I been advised wrongly and are these other officers acting within a valid search exception? [**This question is posed from a law enforcement officer in the State of Idaho**.]

Answer: Before looking to Idaho case law, it is first necessary to review some United States Supreme Court precedent concerning warrantless searches of automobiles based upon probable cause (also known as the automobile exception). The primary case concerning warrantless search of vehicles is Carroll v. United States[i]. In this case, undercover prohibition agents were working a case to purchase illegal liquor from Carroll. Carroll and an accomplice left to purchase the liquor but were not able to complete the deal because the supplier was not available. The agents observed the vehicle description of the car that that Carroll used to transport the illegal liquor. A week later the agents saw Carroll and his accomplice on a roadway commonly used to smuggle illegal liquor. They tried to stop Carroll but lost sight of him. Two months later agents observed Carroll and his accomplice on the same roadway and they conducted a stop. They searched

Carroll's vehicle without a warrant and found 68 bottles of liquor hidden in the seats. The United States Supreme Court held that if police officers have probable cause to believe that evidence of a crime is being transported in a vehicle, the vehicle may be searched without a search warrant. Thus, the Supreme Court upheld the search in this case because (1) they found that the agent had probable cause to believe that Carroll and his accomplice had illegal liquor in the vehicle and (2) due to the mobile nature of a vehicle, it could be moved out of the jurisdiction if the agents took the time to obtain a warrant. Looking at the facts in the most basic manner so that they may be applied to situations officers encounter today we have the following:

- Probable cause to believe contraband is contained in the vehicle;
- The occupants of the vehicle are currently not under arrest; and
- The vehicle is stopped on the highway (mobile).

Over the years the Supreme Court has expanded the "automobile exception" through numerous cases.

In Chambers v. Maroney[ii], the United States Supreme Court interpreted the automobile exception to include vehicles that are in the custody of the police. In this case, officers received a description of a vehicle as well as a clothing description of suspects that were involved in an armed robbery. About an hour after the robbery the police stopped a car that met the description which was carrying suspects that met the clothing description of the robbers. The suspects were arrested and the car was taken to the police station. The police then conducted a warrantless search of the car at the police station and found two guns, ammunition, and property that had been taken in the robbery. One of the issues on appeal of the convictions was that the police conducted an unreasonable search of the defendant's vehicle because they did not obtain a search warrant. The Supreme Court held stated the following:

> *On the facts before us, the vehicle could have been searched on the spot when it was stopped since there was probable cause to search and it was a fleeting target for a search. The probable cause factor still obtained at the station house and so did the mobility of the car…*[iii]

The court reasoned that there was little difference between seizing a vehicle without a warrant and holding it until a warrant is obtained and simply searching the vehicle without a warrant. They further reasoned that it was reasonable to take the car to the police station to conduct the search because all occupants were arrested, it was dark and potentially unsafe for the officers to search it at the stop location, and it would serve the owner's convenience and safekeeping of the vehicle to have the it and the keys together at the station. Again, looking to the core facts of the case that offer guidance to police in everyday situations, we have the following:

- Officers who had stopped a vehicle developed probable cause to believe that the occupants were suspects in an armed robbery;
- The suspects were arrested;
- The vehicle was taken to the police station; and
- The vehicle was searched at the police station while it was in police custody based upon probable cause that it was used in the armed robbery.

Thus, the court upheld the warrantless search on the above facts because the search was based upon probable cause to believe that the vehicle, which the Court still viewed as being mobile, contained evidence of the crime of armed robbery.

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This rationale has been followed numerous times since the Chambers v. Maroney decision. For example, in Texas v. White[iv], White was attempting to negotiate forged checks at a bank. Police officers arrived and directed White to park his car. When he did so, they observed that he was attempting to "stuff" something between the seats. The officers arrested White and took him to the police station. Another officer drove White's car to the police station. The police questioned White for about 45 minutes and requested consent to search his car. White refused to consent. The officers searched White's car without his consent and without a warrant based upon their probable cause that it contained evidence of a crime. The search yielded evidence of the forged checks. The trial judge found that the officers had probable cause to arrest White and probable cause to search his car. White was convicted. The Texas Court of Criminal Appeals, based upon its interpretation of the Fourth Amendment of the U.S. Constitution, reversed the conviction because the evidence obtained from the car was obtained without a search warrant. The United States Supreme Court, quoting from Chambers v. Maroney stated:

> *In Chambers v. Maroney we held that police officers with probable cause to search an automobile on the scene where it was stopped could constitutionally do so later at the station house without first obtaining warrant. There, as here, "the probable cause factor" that developed on the scene "still obtained at the station house."*

The core facts are the following:

- Officers had probable cause to believe that the defendant who was in a vehicle had committed forgery and evidence of the forgery was contained in the vehicle;
- The defendant was arrested and taken to the police station;
- The defendant's vehicle was taken to the police station; and
- The vehicle was searched without a warrant based upon the probable cause.

It is apparent in both Chambers and White that neither defendant was in a position to move their respective vehicles out of the arresting officer's jurisdictions. In each case the actual exigency was gone because the vehicles driver was under arrest and the vehicle was in police custody. Still, the United States Supreme Court upheld each warrantless search.

In United States v. Ross[v], the United States Supreme Court upheld a warrantless search of an automobile where the vehicle was stopped based upon probable cause developed by information from a known, reliable informant that Ross was involved in the sale of illegal narcotics. The police stopped Ross, searched his vehicle without a warrant and found a gun and heroin. They then transported Ross and his car to the police station and searched the trunk again without a warrant. They found a zippered red leather pouch and opened it. The pouch contained $3,200. The Supreme Court upheld the search and defined the scope of a warrantless search of an automobile based upon probable cause. They said that the scope of the search is "every part of the vehicle and its contents that may conceal the object of the search."[vi]

In Michigan v. Thomas[vii], a person was arrested for a traffic violation and the vehicle was impounded. During an inventory of the vehicle incident to the impound, the officer found a two bags of marijuana in the glove compartment. A second officer then searched the car based upon the probable cause provided from finding the marijuana during the inventory. A gun was found in an air vent. It is important to note that this warrantless

search took place when the police had custody of the vehicle, thus the defendant did not have the means to move the vehicle. In interpreting the Fourth Amendment to the U.S. Constitution, the Court of Appeals of Michigan reversed Thomas' conviction stating that there were no exigent circumstances present to justify the warrantless search since the police had custody of the vehicle. The United States Supreme Court held the following:

> *In Chambers v. Maroney, we held that when police officers have probable cause to believe there is contraband inside an automobile that has been stopped on the road, the officers may conduct a warrantless search of the vehicle, even after it has been impounded and is in police custody. We firmly reiterated this holding in Texas v. White, It is thus clear that the justification to conduct such a warrantless search does not vanish once the car has been immobilized; nor does it depend upon a reviewing court's assessment of the likelihood in each particular case that the car would have been driven away, or that its contents would have been tampered with, during the period required for the police to obtain a warrant.*[viii]

Here, the Supreme Court seems to expressly reject the contention that when police have immobilized a car, they must obtain a warrant because there is little likelihood that the car could be driven away while the police obtain a warrant. Thus, exigent circumstances are no longer viewed as a factor for the "automobile exception."

A similar case also occurred in Florida. In Florida v. Meyers[ix], Myers was arrested for sexual battery. His car was searched without a warrant based upon probable cause at the scene and several items were seized. The car was then towed to a locked and secure impound lot. About eight hours later a police officer went to the impound lot and again searched the car without a warrant. Additional items were seized. At trial the evidence from the second search was admitted and Myers was convicted. The Florida District Court of Appeals reversed the conviction holding that the second warrantless search of the car at the impound lot violated the Fourth Amendment because the car was no longer mobile. This case was appealed to the United States Supreme Court who wrote "the District Court of Appeal either misunderstood or ignored our prior rulings with respect to the constitutionality of the warrantless search of an impounded vehicle."[x] They then held the following:

> *In Thomas, we expressly rejected the argument accepted by the District Court of Appeal in the present case, noting that the search upheld in Chambers was conducted "after the automobile was impounded and was in police custody" and emphasizing that "the justification to conduct such a warrantless search does not vanish once the car has been immobilized."*

Once again the Supreme Court reiterated that the lack of exigency or lack of mobility of a vehicle does not prevent a vehicle that is in lawful police custody from being searched without a warrant provided that probable cause exists for the search.

Pennsylvania v. Labron and Pennsylvania v. Kilgore[xi], were decided together by the United States Supreme Court. In Labron, police observed defendant Labron complete a drug transaction. They arrested him and searched the trunk of the car from which the drugs were produced. Cocaine was discovered in the trunk. In Kilgore, the police, working with informants, purchased illegal drugs from Kilgore. The police searched his vehicle without a warrant based upon probable cause. In both cases the Pennsylvania Supreme Court, in interpreting the Fourth Amendment of the U.S. Constitution, ruled that the evidence obtained in both

warrantless vehicle searches should be suppressed. They held that while probable cause was present, there were not exigent circumstances to justify the warrantless search. The United States Supreme Court reversed the Pennsylvania courts decisions and held that "*if a car is readily mobile and probable cause exists to believe it contains contraband, the Fourth Amendment thus permits police to search the vehicle…*" without a warrant.[xii] Further the Court stated that people have a reduced expectation of privacy in an automobile due to its pervasive regulation.[xiii] In both of these cases it is important to note that all occupants of the vehicles were arrested and in custody and the Court still considered the vehicles "readily mobile."

Further clarity came in 1999 when the Supreme Court decided Maryland v. Dyson.[xiv] In this case, officers received information from a known, reliable informant that Dyson was in possession of illegal drugs. The police conducted a traffic stop on Dyson and searched his car without a warrant. They discovered 23 grams of "crack" cocaine in the trunk in a duffle bag. Dyson was arrested, tried and convicted in a Maryland court. However, the Maryland Court of Special Appeals overturned the conviction holding that, although there was probable cause to search the vehicle, the police needed a warrant because there was no exigency that prevented them from obtaining the warrant. The court reasoned that the police had sufficient time to obtain a warrant for Dyson's car after receiving the information from the informant. This holding was based upon the Maryland Court's interpretation of the "automobile exception" under the Fourth Amendment. The United States Supreme Court held that "under our established precedent, the "automobile exception" has no separate exigency requirement."[xv] Further, they stated "If a car is readily mobile and probable cause exists to believe it contains contraband, the Fourth Amendment…permits police to search the vehicle without more."[xvi]

Now we will look to a case from the Idaho Supreme Court, Idaho v. Bottelson[xvii], which involved the warrantless search of an automobile. In Bottelson, officers observed a suspicious vehicle backed up to a house. After a brief field investigation, they developed probable cause to believe that Bottelson was committing a burglary at the house. The officer ordered him to open the trunk of the car and Bottelson complied. The officer observed stolen items in the trunk. The district judge later suppressed the evidence found in the trunk.

The case was appealed to the Idaho Supreme Court and the issue before the court was whether the evidence seized in the warrantless search of the car's trunk should be suppressed. The state argued that the search was a lawful warrantless search in accordance with the automobile exception to the warrant requirement that was first outlined in Carroll v. United States[xviii] and expanded in more recent Supreme Court precedent. The Idaho Supreme Court quoted the United States Supreme Court in Arkansas v. Sanders as follows:

> *The rule of the automobile exception is that "the constitution does not require a search warrant . . . when the police stop an automobile on the street or highway because they have probable cause to believe it contains contraband or evidence of a crime.*[xix]

The Idaho Supreme Court, in discussing Supreme Court precedent, stated

> In *Texas v. White*, the Supreme Court reaffirmed *Chambers per curiam*, holding that a warrantless search of an automobile upon probable cause is proper even after the automobile had been secured and taken to the police station…. In addition, it has become evident since *Coolidge*[xx] that the automobile exception rests not only on the mobility rationale, but also on the rationale that "configuration, use, and regulation of automobiles often may dilute the reasonable expectation of privacy that exists with respect to differently situated property."[xxi]

The Idaho Supreme Court then upheld the search of Bottelson's vehicle and stated

> In light of the renewed emphasis on *Chambers* in the recent cases of *Texas v. White supra, Arkansas v. Sanders, supra*, and *Colorado v. Bannister, supra*, it appears that, in the situation presented here, either securing the automobile and then obtaining a warrant, or proceeding with a warrantless search would have been reasonable under the fourth amendment.[xxii]

The final answer: Thus, from the decision in Bottelson, it appears that the Idaho Supreme Court follows United States Supreme Court precedent, some of which permits warrantless searches of automobiles based on probable cause (the automobile exception) when the vehicle is in police custody at the police station. However, the Idaho Supreme Court does not appear to have directly addressed the issue posed in this question. As such, there is no clear answer at this time. It is also very important to note that individual states can interpret their own state constitutions more strictly than the United States Supreme Court interprets the United States Constitution. As such, states may impose greater restrictions on law enforcement than the United States Supreme Court requires.

Thus, in Idaho, one is best advised to follow the advice of the local prosecutor.

CITATIONS

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[i] 267 U.S. 132 (1925)
[ii] 399 U.S. 42 (1970)
[iii] Id. at 52.
[iv] 423 U.S. 67 (1975)
[v] 456 U.S. 798 (1982),
[vi] Ross at 825.
[vii] 458 U.S. 259 (1982)
[viii] *Thomas at 261.*
[ix] 466 U.S. 380 (1984),
[x] Id. at 382.
[xi] 518 U.S. 938 (1996)
[xii] Id. at 940.
[xiii] Id.
[xiv] 527 U.S. 465 (1999).
[xv] Id. at 466.
[xvi] Id. at 467.

[xvii] 102 Idaho 90; 625 P.2d 1093 (1981)
[xviii] 267 U.S. 132 (1925)
[xix] Bottelson, 636 P.2d at 1096 (quoting Arkansas v. Sanders, 442 U.S. 752 (1979))
[xx] Coolidge v. New Hampshire, 403 U.S. 443 (1971)
[xxi] Id. at 1096
[xxii] Id. at 1097

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