

June 18, 1991

LEGAL BULLETIN NO. 91-2

SUBJECT: Vehicle Searches - Closed Containers

QUESTION: May a police officer who has obtained a suspect's general consent to search his vehicle for certain items open a closed container found within the area of the vehicle to be searched without violating the owner's Fourth Amendment right to be free from unreasonable searches and seizures?

ANSWER: Yes. The Fourth Amendment is satisfied when, under the circumstances, it is objectively reasonable for the officer to believe that the scope of the suspect's consent permitted him to open a particular container within the automobile. Florida v. Jimeno (1991).

FACTS

This case began when a Dade County police officer, Frank Trujillo, overheard the respondent, Enio Jimeno, arranging what appeared to be a drug transaction over a public telephone. Believing that Jimeno might be involved in illegal drug trafficking, Officer Trujillo followed his car. The officer observed Jimeno make a right turn at a red light without stopping. He pulled Jimeno over to the side of the road to issue him a traffic citation. Officer Trujillo told Jimeno that he had been stopped for committing a traffic infraction. Officer Trujillo went on to say that he had reason to believe that Jimeno was carrying narcotics in his car and asked permission to search the car. He explained that he did not have authority to search the car without consent being given by Jimeno. Jimeno stated that he had nothing to hide and gave Officer Trujillo permission to search the automobile. After two passengers-stepped out of Jimeno's car Officer Trujillo went to the passenger side, opened the door and saw a folded brown paper bag on the floorboard. The officer picked up the bag, opened it and found a kilogram of cocaine inside. Jimeno was charged with possession with intent to distribute cocaine.

LAW APPLICABLE

The touchstone of the Fourth Amendment is reasonableness. The courts have long approved consensual searches because it is no doubt reasonable for the police to conduct a search once they have been permitted to do so. The standard for measuring the scope of a suspect's consent under the Fourth Amendment is that of objective reasonableness - what would the typical reasonable person have understood by the exchange between the officer and the suspect? In this case, Officer Trujillo had informed respondent that he believed respondent was carrying narcotics and that he would be looking for narcotics in the car. It was objectively reasonable for the police to conclude that the general consent to search the car included the consent to search containers within the car which might bear drugs. Contraband goods rarely are strewn across the trunk or floor of a car and therefore the authorization to search in this case extended beyond the surface of the car's interior to the paper bag laying on the car floor.

The Court distinguishes the facts of this case from the facts in an earlier case (State v. Wells) where it was held unlawful to pry open a locked briefcase found inside a trunk based upon consent to search the trunk of the car. The Court held that in those circumstances it was likely unreasonable to think that a suspect by consenting to the search of his trunk agreed to have the officers break open a locked briefcase within the trunk. That reasoning did not apply to this case where the officer looked in a closed paper bag within the area to be searched.

PRACTICAL CONSIDERATIONS

As a practical matter, the consent must be voluntarily given. The person giving the consent should be made aware of the fact that the search cannot be conducted without the consent and the area to be searched should be clearly specified by the officer.

If there are any questions about the relevancy of this case to specific incidents, contact the appropriate prosecuting attorney to discuss the situation.

Further inquiries or requests for the case in its entirety should be directed to the Legal Advisor's Office.

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