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Search and Seizure: People v. Galak

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Insofar as New York State adheres to the Supreme Court's rulings on inventory searches, it is clear that the state and federal law equally protect citizens from an unreasonable inventory search and seizure and arbitrary interference by government officials. Thus, unless an inventory search is performed in accordance with the boundaries set by the Fourth Amendment and the recent decisions of the Supreme Court, the search will be invalid under both the state and Federal Constitutions.

People v. Galak²³⁶⁹
(decided July 6, 1993)

The defendant claimed that material seized from a search of his automobile should have been suppressed because it was taken in violation of his state constitutional²³⁷⁰ rights.²³⁷¹ The court held that there was sufficient probable cause for the search and seizure, and the essential relationship between the circumstances of the arrest and the probable cause to search was clearly established.²³⁷² Consequently, the search and seizure of the defendant's automobile was constitutionally permissible.²³⁷³

The Auto Crime Division was investigating the defendant because a trail of oil from a stolen car led to his home.²³⁷⁴ It was discovered that the license plates on the defendant's truck were from a stolen car, and that the truck's Vehicle Identification Number (VIN) belonged to another automobile.²³⁷⁵ Additionally, while surveilling the defendant's garage, the defendant was

facility workers to open the suitcase, which revealed a garbage bag which contained marihuana. *Id.* The defendant was charged with possession of a controlled substance. *Id.*

2369. 81 N.Y.2d 463, 616 N.E.2d 842, 600 N.Y.S.2d 185 (1993).

2370. N.Y. CONST. art I, § 12 ("The right of people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated . . . but upon probable cause . . .").

2371. *Galak*, 81 N.Y.2d at 465, 616 N.E.2d at 843, 600 N.Y.S.2d at 186.

2372. *Id.* at 469, 616 N.E.2d at 845, 600 N.Y.S.2d at 188.

2373. *Id.*

2374. *Id.* at 465, 616 N.E.2d at 843, 600 N.Y.S.2d at 186.

2375. *Id.*

observed “loading fenders into the back of his truck.”²³⁷⁶ As the defendant drove out of his driveway, the police followed him for a few blocks, and then pulled him over.²³⁷⁷ The defendant did not have a driver’s license, and although he did produce a registration, it indicated that the vehicle belonged to the owner of the stolen car.²³⁷⁸ The officers arrested the defendant for “illegal possession of a VIN plate and failure to have a valid drivers license.”²³⁷⁹ The truck was then searched by the police, who discovered a variety of “vehicle parts and an itemized price list for them. The officers also determined that the truck was stolen.”²³⁸⁰

The defendant made a motion to suppress the evidence acquired during the search of the truck, which was denied.²³⁸¹ Subsequently, the defendant pleaded guilty to various charges relating to criminal possession of stolen property.²³⁸² In this appeal, the defendant did not dispute the finding that probable cause was present, rather the defendant contended that the required nexus was not present, and therefore the search was not proper.²³⁸³ The defendant contended that the applicability of the automobile exception to the warrant requirement²³⁸⁴ is dependent upon the search being “necessary to locate evidence related either to the crimes for which the arrest was made or for crimes of

2376. *Id.* at 466, 616 N.E.2d at 843, 600 N.Y.S.2d at 186.

2377. *Id.*

2378. *Id.*

2379. *Id.*

2380. *Id.*

2381. *Id.*

2382. *Id.*

2383. *Id.*

2384. *Id.* at 467, 616 N.E.2d at 843-44, 600 N.Y.S.2d at 186-87. The automobile exception to the warrant requirement permits State actors to conduct a warrantless search of a vehicle when there is “probable cause to believe that evidence or contraband will be found there.” *Id.* at 467, 616 N.E.2d at 844, 600 N.Y.S.2d at 187. Justification for the automobile exception is two-fold. *Id.* First, the ready mobility of an automobile increases the “likelihood that evidence or contraband will disappear if the search is delayed — and [second] by the diminished expectation of privacy held by those who occupy motor vehicles.” *Id.* (citation omitted).

which [the police] become aware during the stop.”²³⁸⁵ Driving without a license and possession of an illegal VIN plate “are not crimes for which evidence will be found inside the vehicle”²³⁸⁶ Therefore, according to the defendant the “necessary ‘nexus’ between the circumstances of the arrest and the probable cause justifying the search” was deficient.²³⁸⁷

The court stated that “[w]hen applying our State Constitution we have held that the police must not only have probable cause to search the vehicle but that there must also be a nexus between the arrest and the probable cause to search.”²³⁸⁸ The court noted that the nexus requirement may be satisfied, even if the search was justified, on grounds other than those which originally alerted the police to stop the vehicle.²³⁸⁹ Accordingly, the court found that probable cause need not be based on circumstances immediately before and during the automobile stop.²³⁹⁰ The court found that evidence obtained by the Auto Crime Division’s ongoing investigation of the defendant could be used in support of the determination of probable cause.²³⁹¹ In particular, both the stop of defendant’s vehicle and the arrest were premised on an illegal VIN plate.²³⁹² Thus, the relationship between the circumstances of the arrest and the probable cause to search was confirmed.²³⁹³ Since there was probable cause, coupled with the required nexus, the search of defendant’s truck was constitutionally permissible, and the motion to suppress the evidence was properly denied.²³⁹⁴

2385. *Id.* at 466, 616 N.E.2d at 843, 600 N.Y.S.2d at 186.

2386. *Id.*

2387. *Id.*

2388. *Id.* at 467, 616 N.E.2d at 844, 600 N.Y.S.2d at 187.

2389. *Id.* at 467-68, 616 N.E.2d at 844, 600 N.Y.S.2d at 187.

2390. *Id.* at 468, 616 N.E.2d at 844, 600 N.Y.S.2d at 187.

2391. *Id.* at 468-69, 616 N.E.2d at 845, 600 N.Y.S.2d at 188.

2392. *Id.* at 468, 616 N.E.2d at 845, 600 N.Y.S.2d at 188.

2393. *Id.* at 469, 616 N.E.2d at 845, 600 N.Y.S.2d at 188.

2394. *Id.* The court, in addressing the defendant’s claim that the warrant application for the defendant’s garage was defective, concluded that the statutory requirements of N.Y. CRIM. PROC. LAW § 690.35 (McKinney 1984 & Supp. 1994) was satisfied. *Id.*

The New York Court of Appeals, in *People v. Blasich*,²³⁹⁵ upheld the same type of search.²³⁹⁶ The court held that under the auto exception to the warrant requirement, police officers had probable cause to search a car which contained tools that were frequently used to break into cars, and in plain view of the officers.²³⁹⁷

In *Colorado v. Bannister*,²³⁹⁸ the United States Supreme Court decided a case dealing with a warrantless seizure of incriminating

2395. 73 N.Y.2d 673, 541 N.E.2d 40, 543 N.Y.S.2d 40 (1989).

2396. *Id.* at 681-82, 541 N.E.2d at 45, 543 N.Y.S.2d at 45. Upon learning that a “suspicious vehicle” was in a parking lot, a police officer proceeded to the location of the described car, and noticed three men inside the car, driving slowly. *Id.* at 675, 541 N.E.2d at 42, 543 N.Y.S.2d at 42. The car did not seem to be waiting to park because it passed some empty parking spots. *Id.* at 676, 541 N.E.2d at 42, 543 N.Y.S.2d at 42. The officer stopped the car, asked some questions, and checked the license and registration. *Id.* The officer did not find any reason to suspect that any criminal activity had taken place, so he made a note of the license number and continued patrolling. *Id.* About forty-five minutes later, after hearing that a car left the lot without paying, the officer drove to a gas station and found the original car, with defendant in the driver’s seat. *Id.* The officer observed within the car “a number of tools commonly used to break into cars” *Id.* There was also a gym bag and two parking lot cards on the floor of the car. *Id.* The men were brought to the police station, and upon request, defendant produced identification. *Id.* This identification, however, was different from the name he initially told the officer. *Id.* The defendant was then arrested for criminal impersonation and his car was impounded. *Id.* The defendant’s car was searched and a .38 caliber revolver, along with an incendiary device and cocaine, were found in the gym bag. *Id.*; see also *People v. Langen*, 60 N.Y.2d 170, 180-81, 456 N.E.2d 1167, 1172-73, 469 N.Y.S.2d 44, 49-50 (1983), *cert. denied*, 465 U.S. 1028 (1984) (warrantless search of defendant’s suitcase located in defendant’s truck is acceptable where defendant is arrested for drug possession and the police have probable cause to believe that evidence related to drug possession is located in the truck); *People v. Belton*, 55 N.Y.2d 49, 55, 432 N.E.2d 745, 748, 447 N.Y.S.2d 873, 876 (1982). The court found a warrantless search of defendant’s jacket, which was on the back seat of the automobile, valid where the defendant was arrested for possession of a controlled substance, and police had probable cause to believe that evidence related to that crime was in the vehicle. *Id.*

2397. *Blasich*, 73 N.Y.2d at 681, 541 N.E.2d at 45, 543 N.Y.S.2d at 45.

2398. 449 U.S. 1 (1980).

evidence from defendant's vehicle.²³⁹⁹ In holding that the seizure was legitimate, the Court noted that as long as probable cause existed regarding items within the vehicle, then a "warrantless seizure was permissible."²⁴⁰⁰ The Court found that "probable cause [was] self-evident" to arrest the defendant, as well as to seize the items without a warrant.²⁴⁰¹

In New York, the automobile exception to the warrant requirement is dependent upon two conditions being satisfied. The police must have probable cause to search the vehicle, and there must be a nexus between the arrest and the probable cause to search. Federal courts, merely require probable cause in the automobile exception realm. Thus, the automobile exception is applied more generously in the context of federal law. The New York Court of Appeals in *Galak* held that both probable cause and the requisite nexus were present,²⁴⁰² therefore the federal standard was undoubtedly satisfied.

2399. *Id.* at 2. A police officer spotted a speeding car which drove out of his sight before he had the opportunity to pull it over. *Id.* at 1-2. A little while later, the officer was notified of a theft of automobile parts, including "a number of chrome lug nuts," and a description of two suspects. *Id.* at 2. The officer then saw the original speeding car still driving well over the speed limit. *Id.* The officer followed the car into a service station to give the driver a ticket. *Id.* The defendant and the other occupant exited the car, and the defendant and the officer conversed right outside of the car. *Id.* The officer then saw chrome lug nuts and two lug wrenches in plain view inside the car. *Id.* The defendant and the other occupant matched the description of the two suspects involved in the earlier theft, and, therefore, the two were arrested and the lug nuts and wrenches were seized. *Id.*; see also *California v. Carney*, 471 U.S. 386, 395 (1985) (holding that a warrantless search of mobile motor home does not violate the Fourth Amendment where agents have probable cause to believe defendant exchanged marijuana for sex); *Cady v. Dombrowski*, 413 U.S. 433, 448 (1973) (warrantless search of automobile is not unreasonable where officer reasonably believed that the truck contained a gun); *Carroll v. United States*, 267 U.S. 132, 162 (1925) (warrantless search of automobile is permissible where officers have probable cause to believe that liquor is being illegally transported in the vehicle).

2400. *Bannister*, 449 U.S. at 3.

2401. *Id.* at 3-4.

2402. *Galak*, 80 N.Y.2d at 469, 616 N.E.2d at 845, 600 N.Y.S.2d at 188.