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Search and Seizure: People v. Goldring

need not be in fear of their safety or suspect that evidence of the crime will be discovered within the container or compartment to justify a warrantless search.[2774]

Both the New York State and Federal Constitution recognize exigent circumstances as justifying warrantless searches incident to arrest. However, the state constitution dictates that the reasonableness of each search and/or seizure be determined according to the particular facts and circumstances of each case, and therefore, is not as broad as the Federal Constitution.[2775] While the state protects against unreasonable search and seizures to a greater degree by conducting a case by case analysis, the federal rule is perhaps more conducive to uniformity and efficiency since police are given "bright line" rules for distinguishing between permissible and impermissible searches and seizures.[2776]

People v. Goldring[2777]
(decided October 13, 1992)

The defendant appealed a judgment which was rendered against him for criminal possession of a weapon and criminal possession of a controlled substance.[2778] In making that determination, the lower court suppressed physical evidence and on appeal the defendant challenged that decision.[2779] The defendant claimed that the court's denial of his motion to suppress violated his

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compartments, . . . or other receptacles." *Id.* However, the court limited its holding only to "the interior of the passenger compartment of an automobile[,]" and stated that it "does not encompass the trunk." *Id.*

2774. *Smith*, 59 N.Y.2d at 458, 452 N.E.2d at 1226, 465 N.Y.S.2d at 898.

2775. *Id.* (citing People v. De Bour, 40 N.Y.2d 210, 222-23, 352 N.E.2d 562, 571, 386 N.Y.S.2d 375, 384 (1976)).

2776. *Id.* at 457, 452 N.E.2d at 1226, 465 N.Y.S.2d at 898 (citing Illinois v. Lafayette, 462 U.S. 640, 648 (1983); United States v. Robinson, 414 U.S. 218, 235 (1973); Dunaway v. New York, 442 U.S. 200, 213-14 (1979)).

2777. 186 A.D.2d 675, 588 N.Y.S.2d 639 (2d Dep't 1992).

2778. *Id.*

2779. *Id.*

federal[2780] and state[2781] constitutional rights.[2782] The court rejected the appellant's argument and held that the use of a "flashlight does not render the officer's observation of [a] crack vial a 'search' within the meaning of the Federal or State Constitutions."[2783]

The defendant was the passenger in an automobile that was pulled over for a traffic violation.[2784] In the course of this stop, with the use of a flashlight, the police officer observed a crack vial in the car's ashtray .[2785] Once the officer observed the crack, he proceeded to search the rest of the automobile and found a weapon.[2786] At trial, the defendant challenged the use of the physical evidence of both the crack vial and the weapon.[2787]

The court reasoned that "[c]ontrary to the defendant's contention, that the officer saw the crack vial with the aid of a flashlight does not render the officer's observation of the crack vial a 'search' within the meaning of the Federal or State Constitutions."[2788] It further stated that "[o]nce the crack vial had been detected, the police had the right to conduct a warrantless automobile search based on the existence of probable cause to believe that the automobile contained contraband."[2789]

The court in *People v. Blasich*[2790] upheld the same type of search.[2791] It held that under the automobile exception to the

2780. U.S. CONST. amend. IV ("The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . .").

2781. N.Y. CONST. art. I., § 12 ("The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated . . . .").

2782. *Goldring*, 186 A.D.2d at 675, 588 N.Y.S.2d at 639.

2783. *Id.*

2784. *Id.*

2785. *Id.*

2786. *Id.* at 675, 588 N.Y.S.2d at 640.

2787. *Id.* at 675, 588 N.Y.S.2d at 639.

2788. *Id.*

2789. *Id.* at 675, 588 N.Y.S.2d at 640.

2790. 73 N.Y.2d 673, 541 N.E.2d 40, 543 N.Y.S.2d 40 (1989).

2791. *Id.* at 681, 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 reported to the described car and noticed three men inside driving slowly. *Id.* at 675, 541

warrant requirement, when police officers find tools that are frequently used to break into cars, in plain view, that gives rise to probable cause.[2792] Since probable cause existed, the cops could constitutionally search the rest of the car without a warrant.[2793]

This decision is consistent with federal case law. For example, in *Texas v. Brown*,[2794] the United States Supreme Court held that "[i]t is . . . beyond dispute that [a police officer's] action in shining his flashlight to illuminate the interior of [defendant's] car trenched upon no right secured to the latter by the Fourth Amendment."[2795] Thus, the Court found the officer's conduct to

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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 what 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.*

2792. *Id.* at 677, 541 N.E.2d at 43, 543 N.Y.S.2d at 43.

2793. *Id.*

2794. 460 U.S. 730 (1983).

2795. *Id.* at 739-40. The defendant was stopped in his car by an officer conducting a routine driver's license check. *Id.* at 730. The officer asked the defendant for his license while shining a flashlight into the car. *Id.* The officer observed the defendant taking his hand out of his pocket. *Id.* In the defendant's hand was a knotted green balloon which the defendant then dropped on the seat and proceeded to reach into the glove compartment. *Id.* From his own experience in the field, the officer knew that drugs were commonly packed in balloons. *Id.* While the glove compartment was open, the officer viewed "several small plastic vials, quantities of loose white powder, and an open bag of party balloons." *Id.* at 734. The defendant told the officer that he did not have a driver's license and the officer told defendant to get out of the car. *Id.*

be lawful and found that "he had probable cause to believe that it was subject to seizure under the Fourth Amendment."[2796]

Under both the State and Federal Constitutions, a person is protected against unreasonable searches and seizures. Both the federal and state courts have given law enforcement great latitude in order to effectively carry out its anti-crime goals. Under both federal and state law, using a flashlight to investigate the interior of an automobile which was properly stopped for a traffic infraction does not rise to the level of a "search," and accordingly, does not require a warrant.

In re Jerry C.[2797]
(decided October 25, 1993)

The defendant appealed a denial of his motion to suppress a gun, recovered during a police pursuit.[2798] The defendant's motion to suppress the physical evidence in question occurred during his juvenile delinquency proceeding which found that his acts, "if committed by an adult, constituted the crime of criminal possession of a weapon in the second degree."[2799] A question on appeal was whether the particular facts of this case support the finding of the trial court that the police pursuit was justified, thereby eliminating the need of a search warrant.[2800]

Upon doing so, the officer withdrew the green balloon from the car. *Id.* The defendant was subsequently arrested. *Id.*

2796. *Id.* at 744, *see also* United States v. Dunn, 480 U.S. 294, 305 (1987) ("[T]he officers' use of the beam of a flashlight, directed through the essentially open front of respondent's barn, did not transform their observations into an unreasonable search within the meaning of [the] Fourth Amendment.").

2797. 197 A.D.2d 685, 602 N.Y.S.2d 899 (2d Dep't 1993).

2798. *Id.* at 685-86, 602 N.Y.S.2d at 900.

2799. *Id.*

2800. *Id.* at 686, 602 N.Y.S.2d at 900; *see also* N.Y. CONST. art. I, § 12. This section provides in pertinent part:

> The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.