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## Search and Seizure, Court of Appeals, People v. Quackenbush

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People v. Quackenbush<sup>104</sup>  
(decided July 9, 1996)

Defendant, James Quackenbush, was charged with the offense of operating a motor vehicle with deficient brakes after his car was impounded for inspection, following a fatal accident.<sup>105</sup> Defendant appealed the appellate decision that the impoundment and inspection of his vehicle was justified,<sup>106</sup> claiming that the police had no authority to impound his car and that any evidence produced from an inspection was the result of an illegal search and seizure in violation of his right against unreasonable searches and seizures pursuant to the Federal<sup>107</sup> and New York State<sup>108</sup> Constitutions.<sup>109</sup> The New York State Court of Appeals affirmed the appellate term's decision that the warrantless impoundment and investigation of a vehicle pursuant to New York law, did not transgress constitutional restrictions against unreasonable searches and seizures.<sup>110</sup>

The defendant's vehicle was impounded for a safety inspection by the police following an accident resulting in the death of a bicyclist.<sup>111</sup> Two days after the accident, the vehicle was inspected and a standard Motor Vehicle Examination Report was

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104. 88 N.Y.2d 534, 670 N.E.2d 434, 647 N.Y.S.2d 150 (1996).

105. *Id.* at 537, 670 N.E.2d at 435, 647 N.Y.S.2d at 151.

106. *Id.*

107. U.S. CONST. amend. IV. The Fourth Amendment provides in pertinent part: "The right of the people to be secure . . . against unreasonable searches and seizures, shall not be violated, and no [w]arrants shall issue, but upon probable cause . . . ." *Id.*

108. N.Y. CONST. art. I, § 12. This section provides in pertinent part: "The right of the people to be secure . . . against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause . . . ." *Id.*

109. *Quackenbush*, 88 N.Y.2d at 537, 670 N.E.2d at 435, 647 N.Y.S.2d at 151.

110. *Id.*

111. *Id.*

completed.<sup>112</sup> The safety inspection revealed a “metal to metal contact’ on the right rear brakes” for which the defendant was charged with a violation of New York Vehicle and Traffic Law (hereinafter “VTL”) section 375 (1).<sup>113</sup> Defendant moved to suppress evidence of the faulty brakes on the basis that the police had no explicit authority to impound his vehicle for the safety inspection without a warrant or probable cause, and, therefore, such action resulted in an illegal search in violation of the Fourth Amendment of the United States Constitution and Article I, section 12 of the New York State Constitution.<sup>114</sup>

The trial court granted the defendant’s motion to suppress the evidence despite testimony at the *Mapp* hearing<sup>115</sup> which provided that the defendant’s vehicle should have been impounded and inspected in order to permit the police to comply with section 603 of the VTL’s requirement to investigate and report vehicles believed to be instrumentalities to the death of accident victims.<sup>116</sup> The trial court reasoned that the failure of

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112. *Id.* The accident in question occurred on August 23, 1995. On August 25, 1995 “a mechanic employed by the Town of East Hampton” completed the inspection . . . in which he was asked to report, in a sworn statement, the condition of the following equipment on the defendant’s vehicle: the horn, windshield, wipers, brake pedal, headlights, tires, brakes, and steering.” *Id.*

113. *Id.* See N.Y. VEH. & TRAF. LAW § 375(1) (McKinney 1996). Section 375(1) provides in pertinent part:

Every motor vehicle, operated or driven upon the public highway of the state, shall be provided with adequate brakes and steering mechanism in good working order and sufficient to control such vehicle at all times when the same is in use. Such a violation shall be punishable as a misdemeanor.

*Id.*

114. *Quackenbush*, 88 N.Y.2d at 537, 670 N.E.2d at 435, 647 N.Y.S.2d at 151.

115. A *Mapp* hearing provides Fourth Amendment protection against unreasonable searches and seizures. Such a hearing determines if the evidence in an investigation has been illegally obtained. See *Mapp v. Ohio*, 367 U.S. 643 (1961).

116. *Quackenbush*, 88 N.Y.2d at 538, 670 N.E.2d at 436, 647 N.Y.S.2d at 152. See N.Y. VEH. & TRAF. LAW § 603 (McKinney 1996). Section 603 provides in pertinent part: “Every police . . . officer to whom an accident resulting in injury to a person shall have been reported . . . shall immediately

the police to apprise the defendant of his right to withhold consent to the inspection, coupled with a lack of probable cause that a crime was committed at the time of the accident, led to the illegal search and seizure of his vehicle.<sup>117</sup>

The appellate term reversed the lower court's decision and denied the motion to suppress the evidence.<sup>118</sup> The court held that police compliance with VTL section 603 in impounding and inspecting the petitioner's vehicle was not in violation of the Fourth Amendment, that the petitioner did consent to the impoundment and that a safety inspection was mandatory to prevent the possibility of another accident.<sup>119</sup> In view of the dissenting opinion that the inspection and examination of the vehicle was a "search" violating the defendant's right to privacy, the court of appeals granted the defendant's request to appeal.<sup>120</sup>

The leading issue that the New York Court of Appeals tackled was whether the police are authorized to impound and inspect a defendant's vehicle after a fatal accident.<sup>121</sup> Section 603 of the VTL implicitly authorizes the police to impound a vehicle in order to complete the investigation and report of its safety features.<sup>122</sup> The court cited "obvious relevance" for the preparation of an investigatory report in order to determine safety defects.<sup>123</sup> The nature of some accident investigations may dictate that safety inspections of a vehicle's mechanical parts be performed by a licensed mechanic at a suitable facility.<sup>124</sup>

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investigate the facts, or cause the same to be investigated, and report the matter to the commissioner . . . ."

117. *Quackenbush*, 88 N.Y.2d at 538, 670 N.E.2d at 436, 647 N.Y.S.2d at 152.

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.* at 539, 670 N.E.2d at 436, 647 N.Y.S.2d at 152.

122. *Id.* at 538, 670 N.E.2d at 436, 647 N.Y.S.2d at 152.

123. *Id.* An "[o]fficer's determination of whether the vehicle was suffering from a safety defect at the time of the accident has obvious relevance in preparing the accident description and in reporting whether violations were issued to drivers of vehicles involved." *Id.*

124. *Id.* at 540, 670 N.E.2d at 437, 647 N.Y.S.2d at 153. An inspection of a vehicle's safety equipment "cannot reasonably be undertaken on the

Regarding the constitutional objective of preventing unreasonable searches and seizures, the court examined Supreme Court precedent set forth in the landmark search and seizure case of *Terry v. Ohio*.<sup>125</sup> Whether the search and seizure is unreasonable depends upon two determinations: (1) whether the governmental intrusion was “[j]ustified at its inception, and (2) whether it was reasonably related in scope to the circumstances which justified the interference in the first place.”<sup>126</sup>

In *Terry*, evidence of the petitioner’s concealed possession of a weapon led to his conviction. Officer McFadden, who found the weapon, testified that he suspected the petitioner and his co-defendants were going to rob a store when he decided to approach them.<sup>127</sup> McFadden found a pistol concealed in the petitioner’s overcoat after frisking him.<sup>128</sup> The petitioner claimed that evidence of the weapon was the fruit of an illegal search and seizure.<sup>129</sup> The Court set out a standard for determining whether a search and seizure is unreasonable by balancing the necessity of a search and seizure against the invasion which it evokes.<sup>130</sup>

The New York State Court of Appeals addressed the types of cases in which warrantless searches may be upheld.<sup>131</sup> “[P]ervasive government regulation” such as vehicular safety

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roadway.” *Id.* The court also considers the hazard of conducting an inspection at the scene of the accident and determined that impounding a vehicle would further a full investigation of potentially contributing causes of the fatal accident and safeguard those carrying out the investigation. *Id.*

125. 392 U.S. 1 (1968).

126. *Id.* at 19-20.

127. *Id.* at 6.

128. *Id.* at 6-7. Without probable cause to arrest, a search for weapons must be “strictly circumscribed by the exigencies which justify its initiation” such as discovery of the weapon that may “be used to harm the officer or others nearby . . . and may . . . be characterized as . . . less than a ‘full’ search . . . .” *Id.* at 26.

129. *Id.* at 28-29.

130. *Id.* at 21.

131. *Quackenbush*, 88 N.Y.2d at 541, 670 N.E.2d at 438, 647 N.Y.S.2d at 154.

inspections are likened to “closely-regulated businesses.”<sup>132</sup> The court’s presumptions are twofold: regulated businesses or actions entail a diminished sense of privacy, and rules governing such activities decrease the risk of “arbitrary and/or abusive enforcement.”<sup>133</sup> Both components of the “persuasively regulated business” exception to the administrative warrant requirements constitute “a constitutionally adequate substitute for a warrant . . . because they ensure that there is a compelling need for the governmental intrusion and that the search is limited in scope to that necessary to meet the interest that legitimized the search in the first place.”<sup>134</sup> The court discussed New York statutory law prescribing annual inspections of vehicle safety equipment<sup>135</sup> in the same light as extensively regulated businesses.<sup>136</sup>

The justification given by the trial court in *People v. Ingle*<sup>137</sup> for resolving the reasonableness of a warrantless search and seizure stems from the weight given to the state’s interest in securing safety on public roads.<sup>138</sup> This concern of ensuring proper functioning of safety devices of vehicles traveling on public roads is the justification for the allowance of warrantless

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132. *Id.* See *People v. Scott*, 79 N.Y.2d 474, 499, 593 N.E.2d 1328, 1343, 583 N.Y.S.2d 920, 935 (1992) (holding that enforcement of the relevant Vehicle and Traffic Law does not constitute regularity and certainty to substitute for a search warrant).

133. *Quackenbush*, 88 N.Y.2d at 542, 670 N.E.2d at 437, 647 N.Y.S.2d at 154.

134. *Id.*

135. *Id.* See N.Y. VEH. & TRAF. LAW § 301 (McKinney 1996). Section 301(a) provides in pertinent part: “The commissioner shall require that every motor vehicle registered in this state be inspected once each year for safety . . . .” Section 301(c)(1) provides in pertinent part: “A safety inspection shall be made with respect to the brakes . . . .”

136. *Quackenbush*, 88 N.Y.2d at 542, 670 N.E.2d at 437, 647 N.Y.S.2d at 154.

137. 36 N.Y.2d 413, 330 N.E.2d 39, 369 N.Y.S.2d 67 (1975) (holding that a police officer may not stop an automobile on a public road absent reasonable suspicion of a Vehicle and Traffic Law violation).

138. *Id.* at 419, 330 N.E.2d at 43, 369 N.Y.S.2d. at 73.

searches and seizures.<sup>139</sup> In order to protect a motorist's right against unreasonable searches and seizures, vehicles are not arbitrarily selected for inspection.<sup>140</sup> Defendant Ingle was convicted of possession of dangerous drugs resulting from a search of his vehicle.<sup>141</sup> The police officer stopped defendant's car under the guise of conducting a routine traffic check.<sup>142</sup> The court found that the evidence of drug possession was inadmissible because the stop was arbitrary rather than routine.<sup>143</sup> The resulting search and seizure was deemed unreasonable, and therefore, illegal.<sup>144</sup>

In *Quackenbush*, "[u]ncontroverted hearing testimony . . . established that it is the standard policy of the East Hampton Police Department to uniformly conduct this mechanical inspection on every vehicle involved in an accident resulting in . . . death."<sup>145</sup> The *Ingle* court articulated that a violation of the VTL need not be apparent, but that a vehicle which seems to be in a deteriorated condition may be sufficient grounds to suspect a violation.<sup>146</sup>

Federal and state constitutional case law deal with the issue of warrantless search and seizure by applying the same balancing test to determine reasonableness: weighing the severity of governmental invasion against the motorist's expectation of privacy.<sup>147</sup> The state's interest in determining whether a safety violation existed at the time of a fatal accident is its initial

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139. *Id.* "The State has a vital and compelling interest in safety on the public highways." *Id.*

140. *Quackenbush*, 88 N.Y.2d at 543, 670 N.E.2d at 439, 647 N.Y.S.2d at 155.

141. 36 N.Y.2d at 414, 330 N.E.2d at 40, 369 N.Y.S.2d at 69.

142. *Id.*

143. *Id.* at 420, 330 N.E.2d at 44, 369 N.Y.S.2d at 75.

144. *Id.* at 421, 330 N.E.2d at 43, 369 N.Y.S.2d at 74. The evidence of narcotics possession was deemed inadmissible by the court. *Id.*

145. *Quackenbush*, 88 N.Y.2d at 544, 670 N.E.2d at 439, 647 N.Y.S.2d at 155.

146. *Ingle*, 36 N.Y.2d at 420, 330 N.E.2d at 44, 369 N.Y.S.2d at 74.

147. *Terry*, 392 U.S. at 20-22.

justification for the intrusion.<sup>148</sup> Where the safety inspection is conducted pursuant to a “closely-regulated statute” the potentially arbitrary nature of a search and seizure is eliminated and the expectation of privacy is diminished.

## SUPREME COURT

### BRONX COUNTY

People v. Williams<sup>149</sup>  
(decided August 5, 1996)

Defendants, Kevin Williams and Anthony Haynes, were each indicted on one count of criminal possession of a weapon in the third and fourth degree.<sup>150</sup> Williams was also charged with criminal possession of a controlled substance in the seventh degree.<sup>151</sup> The defendants moved to suppress the evidence,<sup>152</sup> including the weapon, ammunition and packages of cocaine that were recovered by the police at the scene of the incident.<sup>153</sup> The court granted this motion because they found that the police made

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148. *Quackenbush*, 88 N.Y.2d at 544, 670 N.E.2d at 439, 647 N.Y.S.2d at 155.

149. N.Y. L.J., Aug. 5, 1996, at 29 (Sup. Ct. Bronx County Aug. 5, 1996).

150. *Id.*

151. *Id.*

152. *Id.* See N.Y. CRIM. PROC. LAW § 710.20 (McKinney 1996). This section provides in pertinent part:

Upon motion of a defendant who (a) is aggrieved by unlawful or improper acquisition of evidence and has reasonable cause to believe that such may be offered against him in a criminal action . . . a court may, under circumstances prescribed in this article, order that such evidence be suppressed or excluded upon the ground that it: (1) Consists of tangible property obtained by means of an unlawful search and seizure under circumstances precluding admissibility thereof in a criminal action against such defendant . . . .

*Id.*

153. *Williams*, N.Y. L.J., Aug. 5, 1996, at 25.