Through the Tinted Looking Glass: Second Circuit OKs iPhone-Aided Car Peek in U.S. v. Poller

Description

The U.S. Court of Appeals for the Second Circuit issued a recent decision in *United States v. Poller*, 129 F.4th 169 (2d Cir. 2025). As part of an ongoing investigation into suspected drug and weapons offenses, officers executing search and arrest warrants approached the suspect's vehicle—parked on a public street outside his residence—and used an iPhone camera to examine its interior. On February 20, 2025, the Second Circuit released its opinion, concluding that the defendant's expectation of privacy from all observation of the interior of his car was unreasonable. The court determined that simply using iPhone cameras to view the vehicle's interior did not transform those observations into a "search" under the Fourth Amendment. Additionally, even if the officers briefly made physical contact with the car, any resulting trespass was not the but-for cause of obtaining the evidence. Consequently, the Second Circuit affirmed the district court's judgment denying the defendant's motion to suppress the evidence.

Factual Background

On May 3, 2022, members of the Waterbury Police Department prepared to execute a planned arrest of an individual named Christopher Poller. Officers had a search and seizure warrant for the residence, which arose out of an ongoing drug and weapons investigation, and Poller was also subject to an outstanding Connecticut state arrest warrant for parole abscondment. While conducting surveillance outside the defendant's residence, officers observed the defendant park a gray Acura sedan on a public street near his home. According to their observations, several unknown individuals approached the car and, in what appeared to be hand-to-hand transactions, exchanged items with Poller—behavior the officers believed to be consistent with narcotics sales, based on their training and experience. Soon afterward, Poller left the Acura and went inside his residence. With the warrant in place, law enforcement split into two teams. One group proceeded to Poller's residence to execute the search and arrest warrant, while the second group approached the parked Acura with a plan to investigate its contents. The Acura had heavily tinted windows, which made the interior difficult to see with the naked eye from the street.

One officer, attempting to obtain a clearer view, activated the camera application on his iPhone. He brought it flush against the passenger-side window, then slightly backed off, holding the phone close to—though not touching—the glass. By carefully angling the camera, the officer saw what he believed to be two firearms wedged between the front seats and center console. Showing the image to asecond officer, that officer then repeated the process with his own phone. The second officer confirmedseeing the guns, one with an extended magazine, and a bag that appeared to be filled with drugs. Athird officer cupped his hands around his eyes (without making contact with the glass), peered inside,and stated on body camera that he observed a bag of heroin, along with two guns—one with anextended magazine. The officers' body-camera footage captured the contraband inside. At this point,officers towed the Acura, obtained a search warrant for the car, and discovered the firearms and drugsthey had seen through the tinted windows.

Procedural Posture

Poller was arrested and moved to suppress this evidence, alleging two Fourth Amendment violations: first, that using the iPhone camera to see inside his vehicle intruded on his reasonable expectation of privacy; and second, that by physically touching his car in the process, officers engaged in an unconstitutional trespass. When the case reached the district court, the court rejected both of the defendant's arguments and provided two explanations. First, the court explained that iPhones, like flashlights, are widely available technology used to light up an otherwise visible interior, and that the officers' use of the iPhone cameras did not violate Poller's expectation of privacy because that technology is in general public use. Second, the court dismissed Poller's trespassory search argument, finding that the physical touching of his car was not necessary for law enforcement to see the contraband inside.[1] Poller appealed to the Second Circuit, challenging the district court's denial of his suppression motion, seeking review of one count of possession with intent to distribute fentanyl and cocaine base, and one count of possession of a firearm in furtherance of a drug trafficking crime.

United States Court of Appeals for the Second Circuit

The United States Court of Appeals for the Second Circuit affirmed the district court's denial of the defendant's motion to suppress the evidence, issuing two key holdings. First, the officers' use of iPhone cameras to observe the car's interior through its tinted windows did not violate Poller's reasonable expectation of privacy and therefore did not constitute a "search" under the Fourth Amendment. Second, even assuming the officers' physical touching of the exterior of Poller's car constituted a trespassory "search" under the Fourth Amendment, suppression of the seized evidence was not warranted because the trespass was not the but-for cause of the officers obtaining the evidence.

Addressing Poller's first argument—that officers' use of an iPhone camera to peer through the vehicle's tinted windows in attempting to observe the interior violated his reasonable expectation of privacy—the Court disagreed. Poller contended that the tinting on his car windows prevented "the inside of his car from the casual passerby," and thus he "established an expectation of privacy." However, the Court explained that the question at issue does not hinge on whether Poller's chosen measures (tinted windows) would have successfully concealed the interior from the casual observer. The Supreme Court in *Texas v. Brown* clearly established that there "is no legitimate expectation of privacy shielding that portion of the interior of an automobile which may be viewed from outside the vehicle by either

inquisitive passersby or diligent police officers."[2] Rather, the relevant question here is whether the installation of tinted windows established a legitimate expectation of privacy from "all observations" of the interior of Poller's car.[3] The Second Circuit found that it does not. Whatever Poller's subjective expectation of privacy may have been, his expectation that the installation of tinted windows shielded the car's interior from all observations was not a reasonable one because Poller's tinted windows still allowed individuals standing outside the vehicle to see inside in various ways. He "knowingly exposed the interior of the car to the public" such that it is "not subject to Fourth Amendment protection."[4]

Instead of ending the analysis here, the Court addressed the defendant's argument under *Kyllo v. United States* that his reasonable expectation of privacy was nevertheless violated because the officers required the assistance of iPhone cameras to see into the car's interior. The Second Circuit ultimately refused to extend the protections held in *Kyllo* to Poller's case.[5] In *Kyllo*, the Supreme Court ruled that using sense-enhancing, thermal imaging devices to monitor heat radiation in or around a person's home—even if conducted from a public vantage point—constitutes a search within the meaning of the Fourth Amendment. Addressing the defendant's argument, the Circuit held that *Kyllo* did not extend to observations directed at the interior of an automobile, making a point to distinguish the heightened privacy interests within a home compared to those protections afforded for a vehicle in this case. The Second Circuit referenced its consistent approach in declining to extend *Kyllo* beyond the context of a home. The Court emphasized that the thermal-imaging devices at issue in *Kyllo* differed significantly from the everyday iPhone technology used here. Because the iPhone merely enabled officers to observe what they could have plainly seen with the naked eye, its use to look through the car's tinted windows was not considered a search. As such, the Court held that officers' use of iPhone cameras to aid them in seeing through the tinted windows of Poller's car did not violate Poller's reasonable expectation of privacy and therefore was not a "search" within the meaning of the Fourth Amendment.

Next, the Court tackled Poller's second argument—that by repeatedly touching Poller's car while making observations of the items within it, the officers engaged in a trespassory search under *United States v. Jones*.[6] In *Jones*, the Supreme Court revived the property-based "common-law trespassory test" for determining whether the government conducted a search within the meaning of the Fourth Amendment.[7] In that case, government agents placed a GPS device underneath a Jeep and tracked its whereabouts over a four-week span.[8] Applying the trespass-based analysis, the Court determined that this action qualified as a search because the agents "physically intruded on private property for the purpose of obtaining information."[9] Since *Jones*, the courts have been divided over the proper scope and application of the trespassory-search test. However, the Second Circuit explained that it need not address this divide in Poller's case.

Even assuming a trespassory search occurred, suppression was unwarranted because the search was not the but-for cause of the officers' acquisition of the challenged evidence.[10] Poller could not demonstrate the necessary causal connection because he admitted in the district court that the iPhone did not have to physically contact the car for the camera to reveal its contents. The Court explained that the record showed that two separate officers, on three distinct occasions, were able to clearly identify both firearms in Poller's vehicle using their iPhone cameras. Because the officers were aware of Poller's prior felony conviction—and that he was wanted on an active warrant for parole abscondment—their observations, at the very least, gave them probable cause to believe he unlawfully possessed a firearm as a convicted felon. Based on those observations alone, the officers had the requisite probable cause to conclude that the car contained evidence of that offense and to secure a

warrant to search it. Accordingly, suppression of the guns and drugs recovered from Poller's car was not warranted.

Takeaways

In Poller's case, officers merely used commonplace technology to view what was already in plain sight inside a vehicle. Using readily available technology—like a phone camera—to observe only what is otherwise visible to the naked eye generally does not constitute a search. Even if officers briefly contact the car during their observation, any evidence seen in plain view remains admissible as long as it was visible through lawful vantage points, because tinted windows do not by themselves create a protected Fourth Amendment zone. Therefore, the suppression of the guns and drugs was unwarranted, and the lower court was correct in denying the motion to suppress those items. As such, the Second Circuit affirmed the judgment of the district court.

Citations:

[1] *United States v. Poller*, 682 F. Supp. 3d 226, 233 (D. Conn. 2023).
[2] *Texas v. Brown*, 460 U.S. 730, 739–40 (1983).
[3] *California v. Ciraolo*, 476 U.S. at 207.
[4] *Ciraolo*, 476 U.S. at 213.
[5] *Kyllo v. United States*, 533 U.S. 27, 32 (2001).
[6] *United States v. Jones*, 565 U.S. 400 (2012).
[7] Id. at 409.
[8] Id. at 403.
[9] Id. at 404.
[10] *United States v. Pabon*, 871 F.3d 164, 179 (2d Cir. 2017); see *Hudson v. Michigan*, 547 U.S. 586, 592 (2006); *Segura v. United States*, 468 U.S. 796, 815 (1984).

Date Created
05/06/2025