



CIRCUIT COURTS OF APPEAL · FOURTH AMENDMENT · LEGAL
UPDATE · RESOURCES

Traffic Stop Turned Drug Bust – Fourth Circuit

By **Daigle Law Group**

September 28, 2021

DAIGLE LAW GROUP

This publication is produced to provide general information on the topic presented. It is distributed with the understanding that the publisher is not engaged in rendering legal or other professional services. Always consult qualified counsel for advice specific to your situation.

dlglearningcenter.com

Traffic Stop Turned Drug Bust – Fourth Circuit

By Daigle Law Group · September 28, 2021

In *United States v. Davis*, 997 F.3d 191 (4th Cir. 2021) the 4th Circuit examines a routine traffic stop that turns into a chase. That chase eventually ends with several illegal possessions getting scooped up and a Fourth Amendment appeal about how the evidence was obtained. The 4th Circuit cites multiple SCOTUS cases in their argument, including *Chimel v. California*, *New York v. Belton* and *Arizona v. Gant*.

In *Chimel v. California*, SCOTUS held that the search-incident-to-arrest exception to the Fourth Amendment's warrant requirement allows arresting officers to search "both the arrestee's person and the area within his immediate control." The Court concluded that it was "reasonable" for arresting officers to search the person being arrested and the area within his reach (1) "in order to remove any weapons that the [arrestee] might seek to use in order to resist arrest or effect his escape" and (2) "in order to prevent [the] concealment or destruction" of evidence. Basically, if you are arresting someone it makes sense to search both the person and the area around that person. This becomes important later on in today's case.

And in *New York v. Belton*, the Court recognized that the "courts have found no workable definition of 'the area within the immediate control of the arrestee' when that area includes the interior of an automobile." In other words, when a police officer has made a lawful arrest of the occupant of a vehicle, the officer may, "as a contemporaneous incident of that arrest, search the passenger compartment of that automobile." It is important to note that it is not a given that you can search a vehicle; if you are making an arrest then you may proceed with the search, but not right off the bat.

Lastly, in *Arizona v. Gant*, the Supreme Court held that when making an arrest a vehicle may be searched without a warrant if it was reasonable for the police to believe that the arrestee "could have accessed the car at the time of the search" (the first *Gant* holding). The Court further held that "circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle" (the second *Gant* holding).

All of this is to say that you are allowed to search a vehicle if the occupant of the vehicle is under arrest, especially when that occupant is unsecured and still has access to evidence within the vehicle. Keep that in mind when learning about today's case. So, without further ado, here are the facts:

Facts

On March 1, 2017, at around 2:45 p.m., police officer Derek Richardson of the Holly Springs North Carolina Police Department stopped a car because he believed that the vehicle's windows were tinted too dark, which is in violation of North Carolina law. Officer Richardson approached the driver of the car, Howard Davis, and explained that he had pulled him over because of the vehicle's window tint. He then obtained Davis's license and proof of insurance. A search of the relevant databases revealed that Davis's license was valid and that he "had a history of felony drug charges and convictions."

Two additional uniformed officers arrived in a separate patrol car, parked behind Officer Richardson's vehicle, and activated their car's lights. About three minutes into the stop, while Officer Richardson talked with the other two officers, Davis put his hand out of his window and "ma[de] a pointing gesture indicating that he was leaving." Davis then drove off without his license or proof of insurance, which were still in Officer Richardson's possession.

The officers chased Davis. The pursuit continued until Davis reached a dead-end cul-de-sac, drove in between two houses and into someone's backyard. At this point, Davis got out of his vehicle carrying a backpack, ran on foot into a swamp, and got stuck in knee-high water. When Officer Richardson ordered Davis to come out of the swamp, Davis complied by returning to dry land, dropping the backpack, and lying down on his stomach. Officer Richardson patted Davis down and found a large amount of cash on Davis's person. Officer Richardson then handcuffed Davis's hands behind his back and placed him under arrest for "several traffic violations".

Afterward, Officer Richardson unzipped the closed backpack and discovered "large amounts of cash and two plastic bags containing what appeared to be cocaine." A search of Davis's vehicle revealed a digital scale, a bag containing bundles of cash and other items. The officers also received a report that a witness had observed Davis toss a firearm out of his car window while fleeing. Acting on this information, the officers recovered a .45 caliber handgun from Davis's path of flight through the residential area.

The government charged Davis with three drug and firearms related offenses. Davis filed a motion to suppress the evidence seized from his backpack and vehicle, claiming that the officers' warrantless searches violated the Fourth Amendment. The district court denied Davis's motion and upon conviction he appealed.

Fourth Circuit Opinion

When brought to the Fourth Circuit Court of Appeals, the Court had to decide whether the Supreme Court's holding in *Gant* applied beyond the automobile context to the search of Davis's backpack. The court concluded that the first *Gant* holding applied to searches of non-vehicular containers. Specifically, the court held that police officers can conduct warrantless searches of non-vehicular containers incident to a lawful arrest "only when the arrestee is unsecured and within reaching distance of the [container] at the time of the search." The court added that the Third, Ninth, and Tenth Circuits have reached that same conclusion in similar cases.

Applying the first *Gant* holding, the court held that Officer Richardson's warrantless search of Davis's backpack was unlawful. First, when Officer Richardson searched the backpack, Davis was secured, as he was lying face down on the ground, surrounded by three officers, with his hands cuffed behind his back. Second, Davis was not within reaching distance of the backpack when Officer Richardson unzipped and searched it. Although Davis dropped the backpack next to him before lying down, by the time of the search, Davis was handcuffed, which severely curtailed the distance he could reach.

The court further held that the warrantless search of Davis's vehicle was unlawful. While Davis was initially pulled over because of his window tint, he was ultimately arrested for traffic violations. Consequently, the court held that under the second *Gant* holding, it was not reasonable for the officers to believe that evidence related to the crimes for which Davis was arrested would be found in his vehicle. The court added that Davis's flight from the officers and the cash found on his person did not establish probable cause to justify a warrantless search of Davis's vehicle under the automobile exception.

Takeaways

So, in this case, Davis's Fourth Amendment Rights were found to be violated. Had officers been arresting him for drug related offenses, or on a possession charge, there may have been a different outcome here according to the SCOTUS principles. But because Davis was arrested on traffic charges, there really was no reason for officers to search his car or bag. It is important to keep this distinction in mind when making an arrest and then searching a vehicle. It is also important to note that it is not a given that we can search a vehicle, so make sure to have proper search policies in place that relate to traffic stops.