



SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

LEGAL AFFAIRS UPDATE

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TOPIC: CONSTITUTIONAL LAW

Absent an exception, a warrantless search of a vehicle for the purpose of locating a driver's identification following a traffic stop violates the Fourth Amendment.

On July 4, 2014, City of Woodland Police Officer Jeff Moe received two anonymous tips about a motorist's erratic driving, and that the driver, "Marlena," "had been drinking all day." Unable to locate the car, Officer Moe drove to the address where the car was registered. After a few minutes Maria Elena Lopez drove up and parked in front of the house. Officer Moe did not observe any traffic violations or erratic driving. He approached the car and asked Lopez if she had a driver's license. She stated that she did not. Without asking for her name or identification, Officer Moe detained Lopez and handcuffed her. When Officer Moe asked Lopez if she had any identification possibly within the vehicle, Lopez stated "there might be." Officers opened the passenger door, searched the purse, and found a baggie containing methamphetamine.

Lopez was charged with misdemeanor violations of possessing methamphetamine, and driving when her license to drive had been suspended or revoked. The trial court granted Lopez's motion to suppress the evidence. The Court of Appeal reversed the suppression ruling. On appeal the California Supreme Court reversed the Court of Appeals judgment, holding that the desire to obtain a driver's identification following a traffic stop does not constitute an independent, categorical exception to the Fourth Amendment's warrant requirement. *People v. Lopez*, Nov. 25, 2019.

In analyzing this case, the California Supreme Court began by stating that the Fourth Amendment prohibits "unreasonable searches and seizures." "Warrantless searches 'are *per se* unreasonable under the Fourth Amendment – subject only to a few specifically established and well-delineated exceptions.'"

The central issue in this case was whether to continue to adhere to the rule of *Arturo D.* which held that it is permissible for an officer to search the areas of a vehicle in which necessary documentation "reasonably may be expected to be found."

WHAT THIS MEANS:

A deputy may not conduct a warrantless search of a vehicle and its contents to locate the driver's identification following a traffic stop, absent consent or some other exception. Deputies should utilize alternative methods to obtain identification, including consent and search incident to arrest.

The Court examined the practices in other jurisdictions and found that California was the only jurisdiction that authorized warrantless vehicle searches for identification.

Next, the Court analyzed the United States Supreme Court's 2009 decision in *Arizona v. Gant*, in which the court held that a "search for weapons or destructible evidence is permitted only when an arrestee is actually capable of reaching the area to be searched." The Supreme Court discussed the need to balance a driver's privacy interest against the government's interest. The decision in *Gant* warned against blanket rules that permit officers to search a vehicle, and its contents, whenever an individual is caught committing a traffic offense.

Here, the Court determined that the identification-search exception is a privacy threat. A driver's privacy interests in a vehicle outweighed the government's interests in discovering evidence of a crime.

Throughout the opinion, the Court offered alternatives for peace officers to use to obtain identification information when the driver says that he or she does not have it, including: 1) ask the driver identifying questions and run the DMV record; 2) ask for the driver's consent to search the vehicle for identification; 3) when applicable, utilize established exceptions to the warrant requirement, including exigent circumstances, the automobile exception, and search incident to arrest; and 4) if applicable, arrest the driver.

Ultimately, the California Supreme Court held that the Fourth Amendment does not contain an exception to the warrant requirement for searches to locate a driver's identification following a traffic stop. As such, the Court overruled *Arturo D.* to the extent that it created such an exception.