Recent Case Report

U.S. v. Diaz-Castaneda
(9th Cir. 2007) __ F.3d __ [2007 WL 2044244]

ISSUE
Can officers conduct license plate checks of vehicles without some legal justification?

FACTS
A sheriff's deputy in Oregon ran a computer check on the license plate on a pickup truck he was following. It appears the deputy had no reason to stop the driver or his passenger. The computer check revealed that the registered owner's driver's license had been suspended. It also provided a general description of the registered owner, and this description seemed to match that of the driver. So he stopped the truck and, after confirming the driver's license had been suspended, arrested him.

At that point, the deputy had to decide what to do with the truck. Figuring that the driver would want his passenger to take it, he asked to see the passenger's driver's license. When the passenger, Diaz-Castaneda, complied, the deputy ran his license and was informed that he was an illegal alien who was wanted on an immigration detainer.

Diaz-Castaneda was arrested and subsequently pled guilty to illegal re-entry into the United States after having been convicted of an aggravated felony.

DISCUSSION
Diaz-Castaneda contended that all the information discovered as the result of the license plate check should have been suppressed because the deputy's act of running the plate without any justification constituted an illegal search.[1] He also contended that the deputy could not lawfully request to see his driver's license, and that the deputy conducted another illegal search when he ran his driver's license.

It is, of course, fairly obvious that people cannot reasonably expect privacy in "the particular combination of letters and numerals that make up a license plate number."[2] As the court observed, "[L]icense plates are located on a vehicle's exterior, in plain view of

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[1] **NOTE**: Diaz-Castaneda had standing to challenge the stop because the U.S. Supreme Court ruled in *Brendlin* v. *California* (2007) __U.S. __ that, because of the overriding need for officers to control the movement of passengers in a stopped car, the passengers are automatically detained as the result of a traffic stop.

[2] **QUOTE FROM**: *U.S.* v. *Ellison* (6th Cir. 2006) 462 F.3d 557, 566-7 (dis. opn. of Moore, J.). ALSO SEE *New York* v. *Class* (1986) 475 U.S. 106, 113-4 [a vehicle's VIN numbers is not "private" under the Fourth Amendment].

all passersby, and are specifically intended to convey information about a vehicle to law enforcement authorities, among others."

But Diaz-Castaneda's main argument was that officers should not be permitted to use that information to access additional information which he characterized as "private." The court disagreed, simply pointing out that none of the information contained in most police databases—such as "information about a person's car ownership, driver status, and criminal record"—could reasonably be considered private. Consequently, it ruled that officers do not conduct a Fourth Amendment search when they use the information on a license plate to access additional information in a government database about the car and its owner.[3]

The court acknowledged that it is possible that officers could misuse this information. Still, it explained that "[g]overnment actions do not become Fourth Amendment searches simply because they *might* be carried out improperly." The court added, however, that "our conclusion might very well be different" if officers "violated police guidelines regarding the proper searching of databases."

As for asking to see Diaz-Castaneda's driver's license, the court ruled that this, too, was proper because the deputy had a legitimate need to see it; i.e., he wanted to know "whether Diaz-Castaneda could drive the truck once [the driver] was arrested."[4]

Finally, the court ruled that the deputy, having lawfully obtained Diaz-Castaneda's driver's license, could run it. Said the court, "[T]here is no constitutional basis for complaint when the police properly obtain information located in a driver's license or state ID card, and then use it to access additional non-private (but inculpatory) information about the document's owner."

Diaz-Castaneda's conviction was affirmed. POV

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[3] Also see *U.S.* v. *Ellison* (6th Cir. 462 F.3d 557, 561; *Olabisiomotosho* v. *City of Houston* (5th Cir. 1999) 185 F.3d 521, 529; *U.S.* v. *Walraven* (10th Cir. 1989) 892 F.2d 972, 974.

[4] **NOTE:** The court seemed to indicate that, because the United States Supreme Court has ruled that passengers in stopped cars are automatically detained as the result of the stop (*Brendlin* v. *California* (2007) __ U.S. __), officers may seek their ID because it is settled that officers "may ask people who have legitimately been stopped for identification without conducting a Fourth Amendment search or seizure." Citing *Hiibel* v. *Sixth Judicial District* (2004) 542 U.S. 177, 185.