

People v. Allen

(February 22, 2000) __ Cal.App.4th __ [C030993]

ISSUE

If officers have probable cause to believe that drugs have been hidden in a bicycle, can they search the bike without a warrant?

FACTS

At about 6:45 p.m., two Sacramento police officers spotted Allen riding his bicycle in a high drug area. The officers were familiar with Allen. They knew he had an arrest record for drugs, that he lived some 58 blocks away, and that during a detention two weeks earlier they had found him in possession of food stamps that did not belong to him. As the officers watched, they saw Allen ride his bicycle through a stop sign. So they pulled up next to him and told him to stop.

Allen did not, however, comply. Instead, he kept going and, as he did so, “moved his right hand to the right handlebar and used his thumb to push something inside.” Then he stopped.

While one of the officers was talking with Allen, the other tried to find out what Allen had hidden in the handlebar. According to the court, the officer “searched” the bike by “turning the bicycle upside down and tapping on it.” As he did so, three small rocks of cocaine dropped out. Allen was arrested.

DISCUSSION

Allen claimed the cocaine should have been suppressed, arguing the officer was required to obtain a warrant before searching the bicycle. Because California courts had not ruled, prior to *Allen*, on the legal requirements for searching a bicycle, the court in *Allen* looked to the law governing searches of motor vehicles. Here it found a very clear rule: officers who have probable cause to search a motor vehicle may do so without a warrant, if they have probable cause to believe the vehicle contains contraband.⁽¹⁾

The question, then, was whether a bicycle should be treated the same as a motor vehicle, thus enabling officers to “search” a bike without a warrant so long as they have probable cause to believe that drugs or other evidence has been hidden somewhere in the bike. The court ruled yes, noting, “While not as fast over great distances as an automobile, in certain circumstances [a bicycle’s] size and weight make a bicycle more mobile than other vehicles. As such, a bicycle presents the same type of practical problems to securing a warrant that an automobile and motorhome do.”

The next issue was whether the officers had probable cause to believe Allen had stashed drugs or other contraband in his handlebar. Again, the court ruled yes. Said the court, “Upon seeing someone with an arrest history involving narcotics-related offenses riding a bicycle in an area where narcotics trafficking occurs, who, after running a stop sign refuses a police officer’s order to stop and travels approximately 25 yards while stuffing something into the handlebar of his bicycle, no reasonable person would fair to entertain a strong suspicion that contraband was placed in the handlebar tube of the bicycle.”

1. See *United States v. Ross* (1982) 456 US 798, 800, 809, 825; *California v. Carney* (1985) 471 US 386, 390-3; *United States v. Johns* (1985) 469 US 478, 483-4; *Pennsylvania v. Labron* (1996) 518 US ___ [135 L. Ed 2d 1031]; *People v. Carpenter* (1997) 15 Cal.4th 312, 365; *People v. Chavers* (1983) 33 Cal.3d 462, 466; *People v. Banks* (1990) 217 Cal.App.3d 1358, 1363; *People v. Carvajal* (1988) 202 Cal.App.3d 487, 497; *People v. Carrillo* (1995) 37 Cal.App.4th 1662, 1667; *People v. Lissauer* (1985) 169 Cal.App.3d 413, 420; *People v. Nicholson* (1989) 207 Cal.App.3d 707, 711; *People v. Chestnut* (1983) 151 Cal.App.3d 721, 724; *People v. Superior Court (Overland)* (1988) 203 Cal.App.3d 1114, 1118; *People v. Nonnette* (1990) 221 Cal.App.3d 659, 665, fn.2.