

Collins v. Virginia

(2018) __ U.S. __ [2018 WL 2402551]

Issues

(1) If officers have probable cause to search— a suspect’s vehicle, may they do so without a warrant if the vehicle was parked on the suspect’s driveway? (2) If not, did they have implied consent to enter?

Facts

An officer in Virginia attempted to make a traffic stop on an orange and black motorcycle with an extended frame, but the driver eluded him. A few weeks later, another officer in the same department attempted to stop the same motorcycle for speeding but, again, the driver got away. When the two officers compared notes on the pursuits, they discovered that the motorcycle had “likely” been stolen and that the driver was Collins. So they checked Collins’ Facebook page and saw a photo of an orange and black motorcycle with an extended frame that was parked in the driveway of a house. After some detective work, they located the house and determined that Collins was staying there.

One of the officers then went to the house and saw a motorcycle parked on the driveway. The motorcycle appeared to have an extended frame, but because the officer needed to confirm that it was the one they were looking for, he walked up the driveway, lifted the tarp, and confirmed it. As the result, Collins was arrested and charged with possession of stolen property. His motion to suppress the officer’s observations of the motorcycle in the driveway was denied, and he was convicted. He appealed to the United States Supreme Court.

Discussion

To determine whether Collins’ motion to suppress should have been granted, the Supreme Court had to address two issues: (1) the scope of the so-called automobile exception to the warrant requirement, and (2) whether officers have implied consent to enter a suspect’s property if they remain on normal access routes.

THE AUTOMOBILE EXCEPTION: Under the “automobile exception,” officers with probable cause to search a vehicle may do so without a warrant.¹ Although the automobile exception was established over 35 years ago, the Supreme Court has never had to decide whether the existence of probable cause also authorizes officers to enter private property for the purpose of searching or inspecting the vehicle. (This is probably because most vehicle searches take place on public streets, not private property.)

In any event, the Court ruled that, while the automobile exception authorizes officers with probable cause to search a vehicle that is located in a public place, it does not also constitute authorization to walk onto a suspect’s private property for the purpose of searching or examining it. This ruling was consistent with the Court’s previous ruling that a “search” results if officers walk onto private property for the purpose of obtaining

¹ See *United States v. Ross* (1982) 456 U.S. 798, 809 [“[A vehicle] search is not unreasonable if based on facts that would justify the issuance of a warrant, even though a warrant has not actually been obtained.”]; *People v. Carpenter* (1997) 15 Cal.4th 312, 365 [“The police had probable cause to search the vehicle. Under the ‘automobile exception’ to the warrant requirement, they did not need a warrant at all.”].

evidence of a crime.² Accordingly, the Court ruled that the officer's warrantless entry onto the driveway "invaded Collins' Fourth Amendment interest in the covered motorcycle."

IMPLIED CONSENT: Although the automobile exception did not authorize the entry onto the driveway, it would nevertheless have been legal if Collins had given the officer implied consent to do so. Under what circumstances will the courts imply such consent? The cases indicate that two things are required. First, the officers must have remained on normal access routes to the front door. Second, if the initial entry was lawful, they must not engage in activities that were beyond those that residents would normally expect from visitors. Thus the Court explained that implied consent to enter "typically permits the visitor to approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave."³

While the driveway initially constituted a normal access route to the front door, it eventually took another direction, at which point there was a path that led directly to the front door. As the Court explained, "A visitor endeavoring to reach the front door of the house would have to walk partway up the driveway, but would turn off before entering the [area in which the motorcycle was parked] and instead proceed up a set of steps leading to the front porch."

The Court also pointed out that, even if the officer had remained on the porch, his observation of the motorcycle would have been illegal because this was not something that visitors are normally permitted to do. As the Court explained in *Florida v. Jardines*, "To find a visitor knocking on the door is routine (even if sometimes unwelcome); to spot that same visitor exploring the front path with a metal detector, or marching his bloodhound into the garden before saying hello and asking permission, would inspire most of us to—well, call the police."⁴

For these reasons, the Court ruled that the officer's entry onto the driveway was not consensual and, therefore, his observation of the stolen motorcycle on the premises should have been suppressed. POV

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² See *Florida v. Jardines* (2013) 569 U.S. 1.

³ *Florida v. Jardines* (2013) 569 U.S. 1, 8.

⁴ *Florida v. Jardines* (2013) 569 U.S. 1, 9.