

In re Arturo D.
(2002) ___ Cal.4th ___

ISSUE

A routine traffic stop. The driver says he doesn't have a driver's license. For whatever reason, he does not produce vehicle registration. Can officers search the vehicle for these documents? If so, what is the permissible scope of the search?

FACTS

An officer in Suisun City stopped an extended cab pickup truck driven by Arturo after the officer clocked him at 70 m.p.h. in a 50 m.p.h. zone. Arturo verbally identified himself but said he was not a licensed driver and that he did not have any ID in his possession. The officer presumably asked to see the vehicle registration but all we know is that Arturo said he did not own the truck and did not furnish the registration.

Although it appears the officer could have arrested Arturo for failing to present satisfactory identification,¹ he had decided to cite and release him. Before doing so, however, the officer conducted a search of the truck for license or registration documents. Reaching under the driver's seat and feeling around, the officer found a glass smoking pipe and a vial containing white powder, which turned out be methamphetamine.²

DISCUSSION

Arturo contended the search of the truck was unlawful and, therefore, the methamphetamine should have been suppressed. The California Supreme Court disagreed.

Under California law, a driver who is stopped for a traffic violation is required to show the officer his driver's license and registration.³ The reason for this requirement, as the court in *Arturo* observed, is that the officer "needs to ascertain the true identity of the driver and the owner of the vehicle, in order to include that information on the citation and the written promise to appear."

But what if the driver says he doesn't have either one? In such a situation, as the court in *Arturo* observed, officers are "not obligated to take the driver's word on these matters at face value." Instead, as the court pointed out, it has previously ruled that officers may conduct a warrantless search for these documents inside the passenger compartment.⁴ Until now, however, the courts have usually ruled

¹ See Vehicle Code § 40302(a).

² **NOTE:** In a companion case, *People v. Hinger*, the driver verbally identified himself and said he had neither a driver's license in his possession nor vehicle registration documents. The officer then searched under the passenger seat and found a baggie containing methamphetamine. For the reasons discussed in *Arturo*, the search in *Hinger* was also ruled lawful.

³ See Vehicle Code §§ 4462 [presentation and examination of registration card]; 4454 [registration card must kept in vehicle], 12951 [driver must have valid driver's license in his possession].

⁴ See *People v. Chavers* (1983) 33 Cal.3d 462, 470-1; *People v. Webster* (1991) 54 Cal.3d 411; *People v. Turner* (1994) 8 Cal.4th 137, 181-3 [court refuses to impose a requirement that officers, before entering, must attempt to obtain the information contained in a registration slip through "radio checks, computer terminals or other technological means."]. **NOTE:** Although the

that such a search must be limited to “traditional repositories of auto registration,”⁵ which usually means the glove box and over the sun visors.

In *Arturo*, however, the officer searched under the front seat, an area the defense claimed did not meet the “traditional repository” test. The court responded by noting that it had never expressly adopted a “traditional repository” test, and declining to do so now. Instead, it ruled that officers may search any area—traditional repository or not—“where such documents reasonably may be expected to be found.” In the words of the court:

“Limited warrantless searches for required registration and identification documentation are permissible when, following the failure of a traffic offender to provide such documentation to the citing officer upon demand, the officer conducts a search for those documents in an area where such documents *reasonably may be expected to be found*.”

The question, then was whether it was reasonable for officers to search for ID and vehicle registration under the front seat of Arturo’s truck. The court ruled it was, noting that “numerous published appellate decisions report that drivers’ wallets (and hence, often, identification) have been located under the front seats of vehicles.” Furthermore, the court noted that a variety of cases in and out of California “amply support the observation that persons trying to hide their identity will often put their wallets underneath the seat.”

Accordingly, the court ruled “that in the circumstances of this case, the area under Arturo’s seat was a location where registration or identification documentation reasonably might be expected to be found.” The search was, therefore, lawful.

DA’s COMMENT

Although a search for ID and registration may also be justified simply as a probable cause search,⁶ the court’s decision in *Arturo* eliminates the uncertainty that results when a driver, such as Arturo, claims he doesn’t have any ID or

defendant and the *Arturo* dissenters cited *Knowles v. Iowa* (1998) 525 US 113 as authority to invalidate the search, *Knowles* was a “search incident to arrest/citation” case that was not even remotely supported by probable cause or reasonable suspicion.

⁵ Citing *People v. Webster* (1991) 54 Cal.3d 411, 431.

⁶ See *U.S. v. Ross* (1982) 456 US 798. **NOTE:** Because officers have a legal right to inspect ID and registration documents while conducting traffic stops, these documents are “evidence.” See Evidence Code § 140 [“Evidence” means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.”]. Although it is not the type of evidence that is ordinarily physically seized, it is nevertheless necessary for officers to temporarily inspect it to determine its validity and to obtain information it contains. Consequently, if a driver claims he does not have such documents in his possession or in his car, officers may search for them in the vehicle if there is probable cause to believe they are somewhere inside. Does such probable cause exist? Ordinarily, yes. The courts have consistently ruled that ID and registration documents are commonly stored inside the passenger compartment in such places as the glove box and over the sun visor. See *People v. Webster* (1991) 54 Cal.3d 411, 431 [the officer “was confining his search to the visor and glove compartment, traditional repositories of auto registrations.”]; *People v. Chavers* (1983) 33 Cal.3d 462, 470 [“because a glove compartment is a traditional depository of a vehicle registration, the officers could reasonably believe that a search of that compartment would provide evidence of the suspects’ identification.”].

registration documents in the car. When this happens, and if officers go ahead and search the vehicle anyway, it could be argued that probable cause to search did not exist—that it was automatically eliminated when the driver said there were no such documents in his vehicle.

This possibility was raised by Justice Werdegarr in her concurring and dissenting opinion when she said that most drivers are probably telling the truth when they say they don't have any ID or registration in their vehicle. As the Justice asked rhetorically, "Is it reasonable to believe that a driver—just stopped by police for violating a traffic law—has actually secreted his driver's license somewhere in the car and prefers to deny its presence and risk arrest rather than produce it and hope for release pursuant to a traffic citation?"

This is, of course, a logical point. But it also illustrates one of the problems that the majority sought to eliminate—the problem of forcing officers to choose between, (1) taking the driver's word that he has no ID, (2) conducting an often time-consuming investigation via radio and computer to try to determine the driver's identity and vehicle status, and (3) arresting the driver for failing to provide satisfactory ID. The fourth alternative—conducting a quick search of those places in which ID will reasonably be found—will often convince officers that the driver is telling the truth and should be cited and released.

Three other things: First, the court cautioned that a search for documents would be unlawful if it was merely a pretext to look for evidence. Second, to help prove that a search was not a pretext, officers should usually start searching "traditional" repositories for ID (the glove box and over the visors); then, if nothing is found, extend the search under the front seats. If officers search any other areas, they must be prepared to explain why it was reasonable to believe such documents would be found in the area searched. Third, a search for such documents will likely be unlawful if there is no apparent need for it; e.g., officers had already cited the driver, officers had already decided not to cite him.