

Recent Case Report

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Davis v. United States

(2011) __ U.S. __ [131 S.Ct. 2419]

Issue

If officers conduct a search in accordance with existing law, but before the resulting criminal charge is resolved the law is changed in a way that rendered the search unlawful, must evidence obtained during the search be suppressed?

Facts

In 2007, officers in Alabama made a traffic stop on a car in which Davis was the passenger. After arresting the driver for DUI and arresting Davis for falsely identifying himself, officers handcuffed them both and put them in the back of patrol cars. The officers then searched the car incident to the arrest and found a revolver inside Davis's jacket pocket. As a result, Davis was charged in federal court with being a felon in possession of a handgun and, after his motion to suppress the gun was denied, he was convicted.

Discussion

At the time of the search, it was the law in Alabama—as it was in California and in most states—that officers who have arrested an occupant of a vehicle may search the passenger compartment as a routine incident to the arrest. This rule was announced by the United States Supreme Court in 1981 in the case of *New York v. Belton*.¹ In 2009, however, the Court severely restricted *Belton*, ruling that officers would be permitted to conduct these searches only if the search occurred at a time when the arrestee had immediate access to the passenger compartment. The case was *Arizona v. Gant*,² and it was apparent that the search of Davis's jacket would have been unlawful under *Gant* because it occurred after Davis had been handcuffed. But because the search occurred when *Belton* was still the law, both the federal district court in Alabama and the Eleventh Circuit rejected Davis's argument that his gun should have been suppressed.

Davis appealed to the United States Supreme Court and argued that *Gant* should be applied retroactively. But the Court ruled that the issue here was not the retroactivity of *Gant*, but whether the evidence should be admissible under the Court's Good Faith Rule.

In its usual formulation, the Good Faith Rule states that evidence obtained as the result of an unlawful search will not be suppressed if (1) the search was rendered unlawful by a mistake made by someone who was not associated with law enforcement, and (2) officers were not at fault in failing to detect the mistake.³ For example, if officers discover evidence while executing a search warrant, but if a court later determines that the warrant was invalid because the affidavit failed to establish probable cause, the Good Faith Rule will ordinarily apply because (1) the error was made by the judge who issued

¹ (1981) 453 U.S. 454.

² (2009) 556 U.S. 332.

³ See *United States v. Leon* (1984) 468 U.S. 897; *Arizona v. Evans* (1995) 514 U.S. 1.

the warrant, and (2) it is reasonable for officers to rely on a judge's opinion that probable cause existed.

While the facts in *Davis* do not fall squarely within the parameters of the Good Faith Rule, the Supreme Court concluded that the rule should also be applied where, as here, officers conduct a search that was expressly permitted under a law that existed when the search occurred, but which was subsequently overturned or modified so as to render the search unlawful. The Court pointed out that the sole purpose of the exclusionary rule is to deter police misconduct. But when officers conduct a search or make a seizure that was authorized under existing law, there is simply no misconduct to deter. Said the Court, "An officer who conducts a search in reliance on binding appellate precedent does no more than act as a reasonable officer would and should act under the circumstances. The deterrent effect of exclusion in such a case can only be to discourage the officer from doing his duty." The Court added that "[a]bout all that exclusion would deter in this case is conscientious police work."

Accordingly, the Court ruled that Davis's motion to suppress his gun was properly denied. POV