

People v. Needham

(March 22, 2000) __ Cal.App.4th __ [F032060]

ISSUE

(1) Did a sheriff's department's "oral" policy regarding vehicle inventory searches satisfy the requirement that inventory searches be conducted pursuant to standardized procedures? (2) Was the inventory search of the motorcycle driven by the defendant reasonable in scope?

FACTS

Tulare County sheriff's deputies detained Needham as a suspect in a robbery. Although it turned out Needham was not the perpetrator, the deputies discovered the vehicle registration on the motorcycle was riding had expired. They also learned the motorcycle was not registered to Needham. So the deputies decided to impound the vehicle.

The Tulare County Sheriff's Department has an "oral policy" concerning vehicle inventory searches that "is taught to deputies through field training courses." The policy specifies that officers who are conducting an inventory "must check all valuables and property in the vehicle and record them on the towing form in as much detail as possible." The purpose of this policy is to protect the department against false claims that property was stolen or damaged, and to protect officers from weapons concealed in the vehicle.

While conducting such a search, deputies are given discretion to release personal property in the vehicle to the driver, owner, or other person. Whether they do so or not is a matter left to the deputies' discretion.

During the inventory search of the motorcycle ridden by Needham, one of the deputies searched a duffel bag attached to the rear seat. Inside the bag, officers found drug paraphernalia. Searching a pouch attached to the handlebars, the deputy found opium pipes and methamphetamine.

DISCUSSION

Needham contended the drugs and paraphernalia should have been suppressed because, (1) they were obtained as the result of an unlawful vehicle inventory search, (2) the search was unreasonable in scope.

Lawfulness of search

It is settled that officers may conduct an inventory search of a car or motorcycle that is being impounded or towed if the following three conditions are met:

(1) **Reasonable to tow:** The decision to tow the car must have been reasonable.⁽¹⁾ Many of the situations in which towing is considered reasonable are listed in the Vehicle Code sections that specify when removal is permitted; e.g., vehicle abandoned, traffic hazard, stolen, used in the commission of a crime.⁽²⁾ A vehicle may also be towed when impoundment is necessary to protect the car or its contents from theft or damage.⁽³⁾

(2)**Tow in good faith:** The decision to tow the car must have been made in good faith—not solely for the purpose of conducting an inventory search.⁽⁴⁾

(3)**Inventory in good faith:** The decision to conduct an inventory search must have been made in good faith, not solely for the purpose of searching for evidence.⁽⁵⁾ Again, if the decision to conduct the search was based on department regulations or established routine that required or permitted such action, it will usually be presumed the decision was made in good faith.⁽⁶⁾

It appears Needham did not contend the deputies failed to comply with the first two requirements. He did, however, contend the sheriff's department's "oral policy" covering vehicle inventory searches failed to satisfy the requirement that the decision to conduct the search must have been made in good faith.

The court disagreed, ruling that a departmental policy covering inventory searches need not be written so long as it is standardized. Said the court, "[T]he unwritten policy of the Tulare County Sheriff's department concerning inventory searches is sufficiently standardized to satisfy the Fourth Amendment and that in conducting the inventory search in this case, [the deputy] exercised his discretion within that standard procedure."

Scope of the search

As noted, the drugs and paraphernalia were found inside closed containers attached to the motorcycle. In arguing that the deputies were not permitted to search these containers, Needham made the following arguments:

Containers must be returned to the person in possession: The court rejected Needham's argument that because containers attached to a motorcycle, unlike containers in a car, cannot be stored "inside" the motorcycle, they must be returned to the person in possession without being searched. Said the court, "We see no reason to treat motorcycles differently from cars in this respect. A motorcycle, like a car, is a vehicle. Thus, containers attached to a vehicle, whether a motorcycle or a car, are considered 'in' the vehicle for purposes of the Fourth Amendment. Thus, bags attached to a motorcycle should be treated like any other closed receptacle for purposes of the Fourth Amendment because the bag is a part of the vehicle just like any other compartment or receptacle."

Containers cannot be searched unless they belong to the vehicle's owner: The court also saw no reason to limit inventory searches to containers belonging to the owner of the vehicle. After noting that the purpose of an inventory search is to protect the department and its officers against false claims that property was stolen or damaged, and to protect officers from weapons concealed in the vehicle, the court pointed out that neither of these purposes would be served by excluding certain containers in the vehicle from an inventory search. This is true, the court added, even if the container would not be stored with the vehicle, but would be returned to its owner. Said the court, "[I]f the bags contained a weapon that defendant could have used on the officers, checking the bag before returning it to defendant would have reduced the risk of that danger."⁽⁷⁾

Consequently, the inventory search was ruled lawful, and Needham's conviction was affirmed.

(1) See *People v. Steeley* (1989) 210 Cal.App.3d 887, 892; *People v. Benites* (1992) 9 Cal.App.4th 309, 326; *People v. Webster* (1991) 54 Cal.3d 411, 432; *People v. Auer* (1991) 1 Cal.App.4th 1664, 1668-9.

(2) See Vehicle Code §§ 22651-22669; *People v. Green* (1996) 46 Cal.App.4th 367, 375; *People v. Steeley* (1989) 210 Cal.App.3d 887, 892; *People v. Burch* (1986) 188 Cal.App.3d 172, 180; *People v. Salcero* (1992) 6 Cal.App.4th 720, 723; *People v. Auer* (1991) 1 Cal.App.4th 1664, 1668-9; *People v. Benites* (1992) 9 Cal.App.4th 309, 321. **ALSO SEE:** *South Dakota v. Opperman* (1976) 428 US 364, 368-9.

(3) See *People v. Steeley* (1989) 210 Cal.App.3d 887, 892; *People v. Benites* (1992) 9 Cal.App.4th 309, 326; *People v. Webster* (1991) 54 Cal.3d 411, 432; *People v. Auer* (1991) 1 Cal.App.4th 1664, 1668-9.

(4) See *People v. Aguilar* (1991) 228 Cal.App.3d 1049, 1053; *People v. Salcero* (1992) 6 Cal.App.4th 720, 723; *People v. Uribe* (1993) 12 Cal.App.4th 1432, 1439.

(5) See *Colorado v. Bertine* (1987) 479 US 367, 372-3.

(6) See *South Dakota v. Opperman* (1976) 428 US 364, 372, 375-6; *People v. Steeley* (1989) 210 Cal.App.3d 887, 891-2; *People v. Burch* (1986) 188 Cal.App.3d 172, 180; *People v. Salcero* (1992) 6 Cal.App.4th 720, 723.

(7) **NOTE:** Needham also claimed the search was unlawful because the deputies had “unfettered discretion” in determining whether to search containers. The court responded by noting that the only discretion given to the deputies pertained to whether property should be released to an occupant.