

People v. Wallace

(2017) 15 Cal.App.5th 82

Issue

Did the search of the defendant's car constitute a lawful inventory search?

Facts

An officer in Fairfield heard another officer report over the police radio that he was making a traffic stop on Wallace for "false tabs." The officer was aware that Wallace was wanted for a domestic violence incident that had occurred a night or two earlier. So he went to the scene of the traffic stop, arrested Wallace and, after placing him in handcuffs, searched his car. As the officer entered, he saw a red handle sticking up between the center console and the driver's seat, so he pulled it out and discovered it was the handle of a 24-inch long wooden billy club. Wallace was charged with possession of a billy club in violation of Penal Code section 22210 and, when his motion to suppress the club was denied, he pled guilty but appealed the ruling.

Discussion

Unlike investigative vehicle searches whose objective is to find evidence of a crime, vehicle inventory searches are classified as "community caretaking" searches because their main purposes are to (1) provide a record of the property inside the vehicle so as to furnish the owner with an accounting; (2) protect officers, their departments from false claims that property in the vehicle was lost, stolen, or damaged; and (3) protect officers and others from harm if the vehicle contained a dangerous device or substance.¹ To make sure that inventory searches are conducted for this purpose, and this purpose only, the courts have established the following requirements:

- (1) **Towing was necessary:** It was reasonably necessary to tow the vehicle under the circumstances.
- (2) **Standard procedures:** The scope and intensity of the search were reasonable and in accordance with standard procedures.²

The question then, was whether these requirements were satisfied.

WAS TOWING NECESSARY? The officer testified that his department had a policy "that required officers to have a vehicle towed and inventoried when no one was present to take custody of it." Although the officer explained his department's policy on towing vehicles, and while he testified that there were no passengers in the vehicle who could have taken possession of it, the court said there was no testimony as to why the car could not be left at the scene because, for example, the car was "located in a high crime area, illegally parked or otherwise posed a hazard to motorists or pedestrians." Furthermore, the court said the officer "did not testify that either he [or the other officer] decided to have defendant's vehicle towed before he searched it," or even that the vehicle had eventually been towed. "Given the absence of this evidence," said the court, there is "no

¹ See *Whren v. United States* (1996) 517 U.S. 806, 811, fn.1 ["An inventory search is the search of property lawfully seized and detained, in order to ensure that it is harmless, to secure valuable items such as might be kept in a towed car), and to protect against false claims of loss or damage."]; *People v. Scigliano* (1987) 196 Cal.App.3d 26, 29 ["[T]he police have a duty to protect a vehicle, like any other personal property, which is in the possession of an arrestee."].

² See *Cady v. Dombrowski* (1973) 413 U.S. 433; *Colorado v. Bertine* (1987) 479 U.S. 367.

basis for inferring that [the search] was undertaken for the purpose of preparing an inventory.”

STANDARD PROCEDURES: In discussing the requirement that the search of a vehicle must have been conducted in accordance with standard procedures, the Supreme Court observed that “an inventory search must not be a ruse for a general rummaging in order to discover incriminating evidence. The policy or practice governing inventory searches should be designed to produce an inventory. The individual police officers must not be allowed so much latitude that inventory searches are turned into purposeful and general means of discovering evidence of crime.”³

Here, there was no reason to believe that the scope or intensity of the search was unreasonable, as the billy club was discovered before the search began. Furthermore, the officer explained at the hearing that the purpose of the search was to ensure that, if there are any items of “high value” in the vehicle, “that we are to note them—or, actually, take and put them into our custody for safekeeping.” The officer also testified that it was his department’s policy that officers conduct the search in compliance with the CHP 180 form whose purpose, as the California Supreme Court noted, is “to preserve a record of the physical condition of the vehicle and its contents.”⁴ However, as the court in *Wallace* pointed out, the officer testified he “had nothing to do” with filling out the CHP 180 form, and he did not know whether or not the other officer did so. Consequently, the court ruled that there was insufficient proof that the scope and intensity of the search were in accordance with standard procedures because the officer “did not testify that he was complying with [the CHP 180 form’s requirements] when he searched defendant’s vehicle.”

Accordingly, the court ruled that, “because there is no substantial evidence that [the officer] conducted an inventory search in accordance with standardized procedures,” the billy club should have been suppressed.

Comment

It might be questioned whether the court’s objections to the procedure followed by the officer in this case were well-founded or whether the court engaged in hypertechnical analysis of the situation. It appears that the Attorney General’s Office thought the court’s objections were well-founded because it did not defend the search as a valid inventory search or otherwise contend that it was lawful. In any event, we reported on *Wallace* because it demonstrates the importance of proving that inventory searches were conducted for the purpose of providing an accounting of the vehicle’s contents and that the scope and intensity of the search were consistent with standard policy. POV

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³ *Florida v. Wells* (1990) 495 U.S. 1, 4. Also see *People v. Williams* (1999) 20 Cal.4th 119, 127 [“the record must at least indicate that police were following some standardized criteria or established routine when they elected to open the containers”].

⁴ *People v. Williams* (1999) 20 Cal.4th 119, 123.