

People v. Lopez

(2019) __ Cal.5th __ [2019 WL 6267367]

Issue

If a traffic violator is unable to produce a driver's license or other evidence of ID, may officers search for it in the vehicle?

Facts

During a traffic stop in Woodland, Lopez told the officer that she did not have a driver's license. So, after handcuffing her, the officer searched her car for ID and found methamphetamine in her purse. The trial judge ordered the evidence suppressed, but the Court of Appeal ruled the search was lawful. Lopez appealed the ruling to the California Supreme Court.

Discussion

In 2002, the California Supreme Court ruled in *In re Arturo D.*¹ that when a traffic violator refuses or is unable to produce a driver's license or other proof of identification, officers may search for it in the vehicle. The court reasoned that because officers may routinely search vehicles as an incident to an arrest, they should be permitted to conduct a less intrusive search as an incident to a traffic stop.

In 2009, the U.S. Supreme Court ruled in *Arizona v. Gant*² that officers may conduct vehicle searches incident to the arrest of an occupant only if the arrestee had immediate access to the passenger compartment when the search was conducted. Because Lopez had been handcuffed, she argued that the search violated *Gant* and was therefore unlawful. The California Supreme Court agreed that *Gant* and *Arturo* cannot be reconciled and, as the result, ruled that the search of Lopez's purse was unlawful and that the evidence should have been suppressed.

The court acknowledged that officers in California have relied on *Arturo* for over 25 years, that "law enforcement agencies have crafted policies in reliance on *Arturo D.*," and that they must now "adopt a different approach in scenarios like the one presented here." It pointed out, however, that officers now have "a range of options that are less intrusive than a warrantless search." Those options include seeking the driver's consent to search for ID, and requiring the driver to "place a right thumbprint on the notice to appear."³

But in most cases, the best option is to obtain as much identifying information as possible from the driver (e.g., DOB, address) and run it through DMV or other law enforcement database. Thus the court in *Lopez* said that officers may also question other occupants in the vehicle to confirm the driver's identity. The court also ruled that vehicle searches for ID would be permissible if officers had probable cause to believe that the driver had given a false name or had provided false ID. Said the court, "[A]n officer may search a vehicle upon probable cause to believe evidence of such lying will be found therein." Finally, that court said that "if no other path seems prudent or permissible," officers have the authority to arrest the driver for violating Vehicle Code section 40302

¹ (2002) 27 Cal.4th 60.

² (2009) 556 U.S. 332.

³ See Veh. Code, §§ 40302(a), 40500(a), 40504.

and seek to identify him during the booking process. Officers may not, however pat search the driver to determine if he has a wallet or ID.⁴

One other thing: The court said that its ruling did not prohibit warrantless searches for vehicle registration.⁵ This leaves open the possibility that officers may search the vehicle for registration if the driver is unable to produce it.⁶ But we will have to wait and see how the lower courts interpret this ruling. POV

Date posted: December 2, 2019

⁴ See *People v. Garcia* (2006) 145 Cal.App.4th 782, 788 [“[*Terry*] by no means authorizes a [pat]search for contraband, evidentiary material, or anything else in the absence of reasonable grounds to arrest.”].

⁵ At fn. 2.

⁶ See Veh. Code § 12951(b) [“The driver of a motor vehicle shall present the registration or identification card or other evidence of registration of any or all vehicles under his or her immediate control for examination upon demand of any peace officer” who has been lawfully stopped for a traffic violation.”].