

People v. Maxwell

(2020) __ Cal.App.5th __ [2020 WL 7296850]

Issue

What is the permissible scope of a probation search of a vehicle if the probationer was a passenger in the vehicle?

Facts

Chico police received a tip that Christy Scarbrough, who was wanted on four arrest warrants, was currently at a certain location. When officers arrived there, they spotted a car and saw that Scarborough was the front seat passenger. When Scarbrough stepped out of the car, the officers arrested her. They then spoke with Maxwell who told them he had a prior for robbery, and he had a knife in the trunk. Having learned that Scarbrough was on searchable probation, they searched the car and found “large balls” of black tar heroin, used hypodermic needles, and trafficking paraphernalia. He was later charged with possession of heroin with intent to distribute. Prior to trial, Maxwell filed a motion to suppress the evidence, alleging that officers cannot search a vehicle pursuant to the terms of a passenger’s probation. The motion was denied, and Maxwell was convicted.

Discussion

Maxwell argued that the evidence should have been suppressed because he was not the person on searchable probation—it was the passenger, Scarbrough. Although this precise issue is unsettled, the California Supreme Court ruled in a similar case that if the passenger was *on parole*, officers could search “those areas of the passenger compartment where the officer reasonably expects that the parolee could have stowed personal belongings or discarded items when aware of police activity.”¹ The issue in *Maxwell* was whether this rule applies also applies if the passenger was on searchable probation.

The court ruled there was no rational reason to restrict this rule to parole searches. As the court pointed out, probationers are like parolees in that they “are more likely to engage in criminal conduct than an ordinary member of the community.”² In addition, it observed that “passengers in noncommercial cars—in our case a minivan—typically have ready access to area in both the front and the back seats.

Accordingly, the court ruled that when a probationer with a search condition is inside a stopped vehicle, officers “may search those areas in the passenger compartment where the officer reasonably expects that the probationer could have stowed personal belongings or discarded items when aware of police activity.” Maxwell’s conviction was affirmed. [POV](#)

Date posted: December 13, 2020

¹ *People v. Schmitz* (2012) 55 Cal.4th 909, 926.

² Quoting from *United States v. Knights* (2001) 534 U.S. 112, 121.