



MAY 29, 2018

FYI: COLLINS v. VIRGINIA

Council Members

BERT POSTON
Chair

District Attorney
Conasauga Judicial Circuit

TASHA MOSLEY
Vice Chair

Solicitor-General
Clayton County

GEORGE HARTWIG
Secretary

District Attorney
Houston Judicial Circuit

HAYWARD ALTMAN
District Attorney

Middle Judicial Circuit

PAUL BOWDEN

District Attorney
Tifton Judicial Circuit

GREGORY W. EDWARDS

District Attorney
Dougherty Judicial Circuit

BARRY MORGAN

Solicitor-General
Cobb County

TIMOTHY G. VAUGHN

District Attorney
Oconee Judicial Circuit

STEPHANIE WOODARD

Solicitor-General
Hall County

The United States Supreme Court Rules that the Automobile Exception Does Not Permit an Officer without a Warrant to Enter a Home or its Curtilage in order to Search a Vehicle.

In *Collins v. Virginia*, No. 16-1027 (May 29, 2018), appellant was convicted of theft by receiving. The evidence showed that someone on an orange and black motorcycle with an extended frame twice eluded officers that attempted to stop the person for traffic infractions. An officer learned that the motorcycle was likely stolen and in the possession of appellant. One of the officers did some internet research and located appellant’s address. The officer drove to appellant’s house. He saw a motorcycle covered by a tarp at the top of the driveway and within the curtilage of the house. Without a warrant, the officer walked to the top of the driveway, removed the tarp, and noticed that it appeared to be the motorcycle that had eluded him. The officer also confirmed that the motorcycle was stolen by running the license plate and vehicle identification numbers. The officer then took a photograph of the uncovered motorcycle, replaced the tarp, returned to his car to wait for appellant, and arrested him for theft by receiving when he returned to the house.

Appellant moved to suppress because the evidence was obtained without a warrant. The trial court denied the motion and appellant was subsequently convicted. On appeal, the convictions were affirmed by both the Court of Appeals of Virginia and the Supreme Court of Virginia. Both appellate courts agreed that the motion to suppress was properly denied, albeit for different reasons. The United States Supreme Court granted the petition for writ of certiorari.

The Supreme Court stated that the automobile exception first articulated in *Carroll v. United States*, 267 U. S. 132, (45 S. Ct. 280, 69 L. Ed. 543) (1925), is based on two justifications: 1) the “ready mobility of the automobile” and 2) “the pervasive regulation of vehicles capable of traveling on the public highway.” But, the Court noted, when it announced these justifications, it emphasized they applied only to automobiles and not houses and therefore, supported “treating automobiles differently from house” as a constitutional matter. Thus, the Court posed the question before it as whether the automobile exception justifies the invasion of the curtilage of a home.

The Court held that it does not. The scope of the automobile exception

State Prosecution Support Division



MAY 29, 2018

Council Members

BERT POSTON
Chair

District Attorney
Conasauga Judicial Circuit

TASHA MOSLEY
Vice Chair

Solicitor-General
Clayton County

GEORGE HARTWIG
Secretary

District Attorney
Houston Judicial Circuit

HAYWARD ALTMAN
District Attorney

Middle Judicial Circuit

PAUL BOWDEN

District Attorney
Tifton Judicial Circuit

GREGORY W. EDWARDS

District Attorney
Dougherty Judicial Circuit

BARRY MORGAN

Solicitor-General
Cobb County

TIMOTHY G. VAUGHN

District Attorney
Oconee Judicial Circuit

STEPHANIE WOODARD

Solicitor-General
Hall County

extends no further than the automobile itself. Nothing suggests that the automobile exception gives an officer the right to enter a home or its curtilage to access a vehicle without a warrant. In fact, the Court noted, it has declined to expand the scope of other exceptions to the warrant requirement to permit warrantless entry into the home. For instance, under the plain-view doctrine, any valid warrantless seizure of incriminating evidence requires that the officer have a lawful right of access to the object itself. Similarly, it is a settled rule that warrantless arrests in public places are valid, but, absent another exception such as exigent circumstances, officers may not enter a home to make an arrest without a warrant, even when they have probable cause.

Thus, the Court found, just as an officer must have a lawful right of access to any contraband he discovers in plain view in order to seize it without a warrant, and just as an officer must have a lawful right of access in order to arrest a person in his home, so, too, an officer must have a lawful right of access to a vehicle in order to search it pursuant to the automobile exception. The automobile exception does not afford the necessary lawful right of access to search a vehicle parked within a home or its curtilage because it does not justify an intrusion on a person's separate and substantial Fourth Amendment interest in his home and curtilage. Accordingly, the Court concluded, the automobile exception does not permit an officer without a warrant to enter a home or its curtilage in order to search a vehicle therein. Consequently, the Court reversed the judgment of the Supreme Court of Virginia.