

COURT OF APPEALS OF GEORGIA

Rowland v. State

117 Ga. App. 577 (1968) · No. 43465 · Decided April 2, 1968

SUMMARY

The Court of Appeals of Georgia reversed a judgment against the defendant due to an unlawful search of their automobile. The search was conducted without a warrant and without the defendant's consent, and the only reason given by the police officer was that it was their usual practice to search stopped cars. The court ruled that this search was unreasonable and illegal, and therefore the evidence obtained from it was inadmissible. The case highlights the importance of adhering to the terms of Section 1 of the Act approved March 16, 1966, which governs searches without a warrant.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Pannell; Jordan; Deen
JURISDICTION	Georgia
DECIDED	April 2, 1968
DOCKET	43465
DISPOSITION	reversed
PROCEDURAL POSTURE	Rowland appealed a conviction for possessing excess quantities of tax-paid whiskey, challenging the denial of a motion to suppress evidence obtained during a warrantless search of his automobile and the denial of a motion for new trial.
STANDARD OF REVIEW	The appellate court reviewed the legality of the warrantless search and the trial court's rulings on the motion to suppress and motion for new trial.
PRECEDENTIAL VALUE	Published Georgia Court of Appeals opinion
PARTIES	Rowland v. The State

TOPICS

- search and seizure
- warrant requirement
- suppression of evidence
- exclusionary rule
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a warrantless search of an automobile following a lawful arrest was authorized when the officer stated only that it was his usual practice to search stopped cars.
2. Whether evidence of whiskey discovered during that search was admissible at trial.

HOLDINGS

1. A warrantless search incident to a lawful arrest must be limited to the person arrested and the area within that person's immediate presence, and must serve one of the purposes specified by Georgia Code Ann. § 27-301. A search of the automobile based only on the officer's usual practice of searching stopped cars is unreasonable and illegal.
2. Evidence obtained through the unreasonable and illegal warrantless search of the automobile was inadmissible against Rowland.

KEY QUOTATIONS

“While a lawful search may be made without a warrant when a person is under arrest, such search must be made under the terms of Section 1 of the Act approved March 16, 1966” (117 Ga. App. at 577)

“such a search is unreasonable and illegal and evidence of the possession of excess quantities of tax-paid whiskey in the trunk of the automobile obtained by such illegal search is inadmissible” (117 Ga. App. at 578)

FACTUAL BACKGROUND

A state police officer observed Rowland run a stop light while entering a state highway and immediately arrested him for that offense. Without Rowland's consent, the officer searched the automobile, giving as his only reason that it was his usual practice to search stopped cars. The search uncovered excess quantities of tax-paid whiskey in the trunk, and the State used that evidence to obtain a conviction for possessing the whiskey.

PROCEDURAL HISTORY

A state police officer arrested Rowland after observing him run a stop light while operating an automobile. The officer searched the automobile without Rowland's consent, finding whiskey in the trunk, and explained only that it was his usual practice to search stopped cars. The trial court overruled the motion to suppress and the motion for new trial, and the Court of Appeals of Georgia reversed.

DISPOSITION

reversed

CASES CITED

- *People v. Blodgett*, 46 Cal. 2d 114, 293 P.2d 57

- People v. Zeigler, 358 Mich. 355, 100 N.W.2d 456
- People v. Gonzales, 356 Mich. 247, 97 N.W.2d 16
- Burley v. State, 59 So. 2d 744 (Fla.)
- People v. Watkins, 19 Ill. 2d 11, 166 N.E.2d 433
- People v. Mayo, 19 Ill. 2d 136, 166 N.E.2d 440
- Joseph v. Commonwealth, 324 S.W.2d 126 (Ky.)
- Barnes v. State, 25 Wis. 2d 116, 130 N.W.2d 264
- United States v. Tate, 209 F. Supp. 762