

SUPREME COURT OF COLORADO

People v. Delacruz

2016 CO 76 (Colo. 2016) · No. 16SA163 · Decided December 5, 2016

SUMMARY

The Colorado Supreme Court reviewed an interlocutory appeal from an order suppressing a firearm found in a vehicle occupied by the defendant. The court held that the firearm was discovered during a valid protective search under *Michigan v. Long* because the officer had an objectively reasonable basis to believe the occupants might be armed and the search remained within a lawful scope.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Márquez
JURISDICTION	Colorado
DECIDED	December 5, 2016
DOCKET	16SA163
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The People brought an interlocutory appeal under section 16-12-102(2), C.R.S. (2016), and C.A.R. 4.1 from an order suppressing a firearm seized from a vehicle in which Delacruz was a passenger.
STANDARD OF REVIEW	The court defers to the trial court's historical factual findings when supported by competent evidence and reviews de novo the trial court's application of law to those facts.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The People of the State of Colorado v. Randiray D. Delacruz

TOPICS

- suppression of evidence
- fourth amendment
- search and seizure
- warrant requirement
- interlocutory appeal

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure
- evidence

QUESTIONS PRESENTED

1. Whether the officer had an articulable and objectively reasonable basis to conduct a protective search of the vehicle's passenger compartment under *Michigan v. Long*.
2. Whether the protective search remained valid even though both occupants had been removed from the vehicle and Delacruz had been handcuffed.
3. Whether looking behind the driver's seat and opening the rear door to examine a partly concealed object exceeded the lawful scope of a protective search.

HOLDINGS

1. The officer had an articulable and objectively reasonable belief that the vehicle occupants might be armed and dangerous, justifying a protective search of the passenger compartment under *Michigan v. Long*.
2. The protective search was not rendered unreasonable merely because both occupants had been removed from the vehicle and Delacruz had been handcuffed.
3. The officer did not exceed the lawful scope of the protective search by examining the rear floorboard, opening the rear door, and making a cursory examination of the partly concealed object.

KEY QUOTATIONS

"Because such threats may be present regardless of the cause of the investigatory stop, the nature of the offense leading to the investigatory stop is not determinative." (at 9)

"The rear floorboard of Yerebeck's SUV falls within the lawful scope of a protective search because it is an area of sufficient size to hold or conceal a weapon and would have been within the immediate reaching distance of a vehicle occupant." (at 12)

FACTUAL BACKGROUND

A Denver police officer stopped an SUV after observing it turn without signaling. During the stop, the passenger gave a name that produced no record in the NCIC database, causing the officer to suspect he had provided a false name. When the passenger exited, the officer observed a large fixed-blade knife on the front passenger-side floorboard; during a protective search for additional weapons, the officer saw what appeared to be a firearm butt on the rear floorboard inside a pillowcase.

PROCEDURAL HISTORY

Delacruz was charged in Denver District Court with three counts of menacing and one count of possession of a weapon by a previous offender. He moved to suppress a TEC-9 handgun discovered during a search of the vehicle. The district court granted the motion, concluding that the search was not valid as either a search incident to arrest under *Arizona v. Gant* or a protective search under *Michigan v. Long*. The Colorado Supreme Court reversed and remanded for further proceedings.

DISPOSITION

REMAND INSTRUCTIONS

The case is remanded to the district court for further proceedings consistent with the opinion.

CASES CITED

- Michigan v. Long, 463 U.S. 1032 (1983)
- People v. Castaneda, 249 P.3d 1119, 1122 (Colo. 2011)
- People v. Rodriguez, 945 P.2d 1351, 1359 (Colo. 1997)
- People v. McDaniel, 160 P.3d 247, 250 (Colo. 2007)
- People v. Brant, 252 P.3d 459, 462-64 (Colo. 2011)
- Terry v. Ohio, 392 U.S. 1 (1968)
- People v. Weston, 869 P.2d 1293, 1296-1300 (Colo. 1994)
- People v. Melgosa, 753 P.2d 221, 226, 228 (Colo. 1988)
- People v. Altman, 938 P.2d 142, 146 (Colo. 1997)
- People v. Corpany, 859 P.2d 865, 869 (Colo. 1993)
- Minnesota v. Dickerson, 508 U.S. 366, 373 (1993)
- Arizona v. Gant, 556 U.S. 332, 343 (2009)
- People v. Chamberlain, 229 P.3d 1054, 1057 (Colo. 2010)
- United States v. Christian, 187 F.3d 663, 669 (D.C. Cir. 1999)
- People v. Lewis, 659 P.2d 676, 682 (Colo. 1983)