



Roll Call Reporter

January 2018

LEGAL UPDATE FOR MARYLAND LAW ENFORCEMENT OFFICERS

Question: Can a protective search in the passenger compartment of a vehicle include lifting the floor mat and inspecting the area under it?

Answer: Yes. If the police have reasonable articulable suspicion that a weapon may be found on the floor of a vehicle, a protective search to ensure that no weapon is hidden there may include lifting the floor mat.

Case: *Patrick A. Goodwin v. State of Maryland*, Court of Special Appeals of Maryland Decided December 21, 2017

The Observations of Suspected Drug Activity and the Traffic Stop

On June 24, 2016, Officers Paul Malatesta and Kyle Jones, members of the Frederick City Police Department, were on assignment as part of the Street Crimes Unit, which focuses on high crime areas, drug activity, and gang activity. They were conducting surveillance of the Windsor Gardens Apartments, an area well-known by law enforcement for the sale and use of drugs, as well as gang-related activity.

The officers observed a man parked in a car outside of the apartments. Another man, who the officers recognized as Craig Walker, walked back and forth from the vehicle to one of the buildings in the

complex multiple times. They knew Walker as someone on the department's outstanding warrant list. The officers did not observe any "hand-to-hand" exchange of drugs, but Walker's actions gave the officers the impression that he was the "middleman" in brokering a drug deal. Walker then entered the parked car's front passenger seat, and the car drove off. The officers followed in their marked patrol car. They also confirmed with dispatch that Walker had an outstanding contempt of court warrant for failure to appear in a criminal case and decided to initiate a traffic stop to arrest Walker. No traffic violations preceded the stop.

The officers activated their patrol car's emergency lights and the driver slowed the car but did not stop. He did not pull over until traveling another 3 to 4 hundred yards. Nothing prevented the car from stopping sooner. Even as the car was coming to a stop, it rolled a bit further. Based on their experience, the officers concluded that the driver was attempting to buy time until encountering the police.

As the driver pulled over, both officers saw him bend down near the floorboard toward the inside of the vehicle, completely disappearing from the officers' view for several seconds before coming back into view. The officers concluded that the driver was either retrieving something or concealing something. The officers asked the driver, identified as Patrick A. Goodwin, to step out and stand near

the rear of the car. Other officers arrived at this point to arrest Walker.

The Protective Search (“Frisk”) of the Vehicle, the Discovery of CDS, and the Arrest

Based on Goodwin’s furtive movements, Officers Malatesta and Jones suspected that weapons could be in the vehicle. As Walker was being arrested, Officer Jones conducted a protective search of the “lunge-and-grab-area” of the car where Goodwin had been seated, and the area toward which the officers saw him bend. This included the driver’s seat, the driver’s door pocket, under the driver’s seat, both sides of the driver’s seat, the cup holder/console area, and under the driver’s floor mat. As to the floor mat, the officers knew that people sometimes have “hides” in the floor of a vehicle—a hole in the floorboard used to hide firearms—with no bulge visible to the eye.

When Officer Jones lifted the floor mat, he found a single syringe, with what appeared to be heroin residue on its tip. Goodwin was immediately arrested and both he and his car were searched incident to arrest. From the car, the officers recovered a spoon and straws and, from Goodwin’s wallet, the officers recovered two strips of Suboxone Film, a prescribed medication used to treat opioid addiction.

The Criminal Charge, Motion to Suppress, and Conviction

Goodwin was charged with one count of possession of a controlled dangerous substance. He moved to suppress the evidence. The circuit court denied the motion, finding that the officers had reasonable articulable suspicion (“RAS”) to conduct a protective search of the area where Goodwin was reaching down. Goodwin was convicted and received a suspended four-year sentence and supervised probation. He appealed.

The Decision on Appeal

The Court of Special Appeals upheld Goodwin’s conviction. The court rejected Goodwin’s contentions that the officers lacked RAS to believe that he was armed and dangerous and that they exceeded the scope of a permissible *Terry* frisk. As to the RAS, the court pointed to the following: (1) the officers were conducting surveillance in a high-crime area known for drug related crimes; (2) the officers’ observations of both Walker and Goodwin while the car was still parked led them to suspect drug activity; (3) the fact that both officers knew that weapons were routinely associated with drug activity; (4) the fact that Goodwin did not immediately pull over; and (5) Goodwin’s furtive movements in the car. These factors led to RAS that Goodwin was armed and dangerous.

As to the scope of the protective search, the court found that the lifting of the floor mat was permissible. The court recognized that the scope of a protective search of a vehicle’s passenger compartment generally is limited to those areas in which a weapon may be placed or hidden and to areas in which the suspect may gain immediate control of weapons. The permissible scope of a protective search must be determined on the facts of each case. The ultimate objective in determining the scope is officer safety. In this case, when Goodwin ducked down toward the floorboard, he made the area under the floor mat an area within his “reach, lunge, or grab.” For this reason, the scope of the protective search was constitutional.

Note: Officers must keep in mind that a drug transaction *by itself* may not automatically provide RAS that a suspect is armed. A drug transaction is, however, a factor that police may consider. Here, there was not only a suspected drug transaction, there were other factors, including the driver’s failure to immediately stop and his bending down toward the floor area, that factored in to the RAS. Finally, if there is a “container” in the protective search (“frisk”) area of the vehicle, such as a bag or



backpack, the container itself must be frisked, not opened, unless a frisk would not be sufficient to determine whether the container contained a weapon.

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