



LGIT'S ROLL CALL REPORTER JANUARY 2008

It is reasonable for officers to infer that the driver *and* passengers of a stolen vehicle are engaged in a common criminal enterprise, and, consequently, all can be arrested subsequent to the traffic stop of the vehicle.

QUESTION: If an officer stops a vehicle that has been reported stolen, does the officer have probable cause to arrest not only the driver, but also the other occupants of the vehicle?

ANSWER: Yes. It is reasonable for an officer to suspect that all of the vehicle's occupants are engaged in a common enterprise, *i.e.*, stealing and/or possessing a stolen vehicle.

**CASE: *Hatcher v. State*, Court of Special Appeals of Maryland
Decided November 7, 2007**

In *Hatcher v. State*, the Court of Special Appeals considered whether a police officer who stopped a vehicle for traffic violations and because it had been reported stolen had probable cause to arrest the driver and the other occupants for the theft. After considering all pertinent case law, the court concluded that the officers did have probable cause to arrest all of the vehicle's occupants.

The facts established that on December 15, 2005, at 12:41 a.m., Officers Kelley and Niebauer of the Hagerstown Police Department were stopped at a traffic light when they observed a black Chevy run a red light. Officer Kelley began to follow the vehicle, which was traveling at approximately 45 miles per hour in a zone with a posted speed limit of 25 miles per hour. The officers ran the vehicle registration through police dispatch and learned that the vehicle had been stolen in Leesburg, Virginia. Subsequently, the officers initiated a traffic stop by activating the police vehicle's lights and siren. The vehicle continued traveling approximately a quarter of a mile to a half mile and proceeded to ramp onto southbound Interstate 81 before it stopped just off the ramp. Once the vehicle stopped, the officers conducted a "high risk stop" based on the fact that the vehicle was reported stolen and initially failed to comply when the officers attempted to stop it. A "high risk stop" consisted of giving verbal commands to the driver, with weapons drawn, to turn off the vehicle, remove the keys from the ignition, and drop the keys outside the vehicle. The officers then advised the driver to exit the vehicle. The driver complied with the officers' request, and he was handcuffed and removed to a safe location where he was detained.

The same actions followed for the two remaining occupants. The passenger in the back seat was Carroll Antonio Hatcher, who identified himself as “Randolph T. Hatcher” and presented a New Jersey identification card so indicating. Officer Kelley then confirmed with dispatch that the vehicle had been stolen. None of the occupants admitted to the theft. Officer Kelley then determined that all of the occupants were going to be placed under arrest for the vehicle theft. Prior to placing Hatcher in the rear of his police cruiser, Officer Kelley searched him. He found a crack pipe and a small plastic baggie that contained suspected crack cocaine in Hatcher’s pants pocket. Hatcher and the others were then transported from the scene. As they left, the officers were advised by dispatch that a “Carroll Antonio Hatcher” was wanted for theft in Leesburg, Virginia. Hatcher was charged with possession of cocaine and possession of cocaine with intent to distribute. Before trial, he moved to suppress the cocaine. His motion was denied, and he was convicted by a jury and sentenced to a term of imprisonment. Hatcher appealed.

On appeal, Hatcher argued that he was arrested solely because of his status as a passenger in the car without any individualized suspicion or probable cause to believe that he was committing any crime. The State countered that Officer Kelley clearly had probable cause to arrest Hatcher for unauthorized use of a motor vehicle based on the totality of the circumstances surrounding the stop. The Court of Special appeals concluded that Hatcher was lawfully arrested based on probable cause and, subsequently lawfully searched incident to his arrest.

In reaching this conclusion, the court concluded that it was reasonable for Officer Kelley to suspect that *all* of the vehicle’s occupants were engaged in a common enterprise, *i.e.*, stealing and/or possessing a stolen vehicle. No evidence was presented at the suppression hearing indicating that any of the three occupants admitted to stealing the vehicle at the time of their arrests. Clearly, the driver was in possession of stolen goods, an obvious criminal activity, and was subject to arrest. Further, there was nothing to indicate to the officers that he was in fact the thief or the only thief; to the contrary, the officers only had knowledge that the car had been stolen. Thus, the officers could infer, based on the totality of the circumstances, that Hatcher was engaged in a common enterprise with the driver and other occupant. Accordingly, Hatcher was lawfully arrested and searched incident thereto.

NOTE: This case extends the decision in *Maryland v. Pringle*, decided by the United States Supreme Court in 2003. In *Pringle*, a car occupied by three men was stopped for speeding. After the driver consented to a search of the vehicle, the police found a large quantity of cash in the glove compartment and baggies containing cocaine in the back seat armrest. None of the individuals in the vehicle admitted ownership of the drugs or money so all were arrested on possession charges. The court held that the officers had probable cause to believe that Pringle, a passenger in the vehicle, had committed that crime. The rationale for *Pringle* and *Hatcher* is that a car passenger will often be engaged in a common enterprise with the driver, and have the same interest in concealing the fruits or the evidence of their wrongdoing. Officers should note, however, that if there is evidence at the scene that causes them to conclude that one of the individuals detained is not connected with the criminal enterprise, that person should be released.

By John F. Breads, Jr., Director of Legal Services, Local Government Insurance Trust

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