



LGIT'S ROLL CALL REPORTER APRIL 2008

THE SEARCH OF A LOCKED GLOVE COMPARTMENT IS WITHIN THE SCOPE OF A LAWFUL SEARCH INCIDENT TO ARREST

QUESTION: Is the warrantless search of a locked glove compartment beyond the scope of a permissible search incident to an arrest?

ANSWER: No. A glove compartment, whether locked or unlocked, is a “container” in the vehicle’s passenger compartment. Consequently, a locked glove compartment can be searched incident to a lawful custodial arrest.

CASE: *Hamel v. State*, Court of Special Appeals of Maryland
Decided March 6, 2008

In *Hamel v. State*, the Court of Special Appeals was asked to determine whether the search of a locked glove compartment comes within the scope of a lawful search incident to arrest. In the decision issued by a unanimous three-judge panel, the court held that the search was lawful.

The facts in the *Hamel* case established that on March 11, 2005, Jason Keith Hamel was driving a white Chevrolet Camaro on Eastern Boulevard in Baltimore County. Officer Derrick Bowser, on routine patrol, observed the vehicle weaving from one lane to the other, and at times traveling in the center of both lanes, across the marked lane dividers. Officer Bowser stopped the vehicle for the observed traffic violations. Hamel was ordered out of the car and requested to perform several field sobriety tests. Hamel failed the tests and was placed under arrest for driving under the influence of alcohol. When Hamel was searched incident to his arrest, officers discovered an empty black nylon handgun holster in his waistband. Hamel was handcuffed and placed inside a police vehicle. The three passengers in the car were ordered out, patted down, and placed on their knees. The interior of the car was then searched. Finding nothing, officers removed the keys from the ignition and used them to unlock and open the glove compartment. Inside, they found 19 individual baggies of cocaine, \$2100 in U.S. currency, and a Smith & Wesson .357 Magnum handgun.

Hamel was charged with possession of a handgun in connection with a drug trafficking offense. Prior to his trial, he moved to suppress the evidence, arguing that the warrantless search of the glove compartment was illegal and beyond the scope of a permissible search incident to arrest. The motion was denied. Hamel was convicted and sentenced to a term of imprisonment. Hamel then appealed.

On appeal, Hamel again contended that the scope of the allowable search incident to his arrest did not extend to the locked glove compartment. Consequently, the evidence seized from the compartment should have been suppressed. The Court of Special Appeals disagreed. In so doing, the court first observed that the issue of whether the search of a locked glove compartment incident to arrest was legal was one of first impression in Maryland. The court then turned its attention to the case of *New York v. Belton* which was decided by the United States Supreme Court in 1981. In *Belton*, the Supreme Court broadened the scope of searches incident to arrest, holding that when an officer makes a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of the automobile. The scope of such search also includes the contents of any containers found within the passenger compartment, whether the containers are open or closed. There is no language in the *Belton* opinion supporting the contention that the Supreme Court intended to exclude “locked” containers or “locked” compartments, including glove boxes. In the absence of such language, our Court of Special Appeals extended the *Belton* holding to include a locked glove compartment. In essence, the court ruled that there is no distinction between a locked glove compartment and an unlocked one with respect to a search incident to an arrest. Further, the search is valid even if the arrestee has been secured and safely removed from the vehicle.

NOTE: As emphasized by the court in the *Hamel* case, the search of the locked compartment was valid because it was incident to a lawful arrest. Would the outcome have been the same if the officer lacked probable cause to arrest and had only a “reasonable articulable suspicion” that the driver was armed and dangerous or that he may gain immediate control of weapons? In light of the previous decision of the Court of Special Appeals in *Cross v. State* (Roll Call Reporter, November 2005), the search would have been upheld. In the *Cross* case, relying on Supreme Court precedent, the Court of Special Appeals held that officers may “frisk” the passenger compartment of an automobile for weapons provided they have reason to believe that a weapon is in the car and the suspect is dangerous. Any such “frisk”, however, must be confined to areas of the passenger compartment in which a weapon may be placed or hidden, including a locked glove compartment.

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

This publication is designed to provide general information on the topic presented. It is distributed with the understanding that the publisher is not engaged in rendering legal or professional services. Although this publication is prepared by professionals, it should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.