



LGIT'S ROLL CALL REPORTER

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SUPREME COURT UPHOLDS SEARCH OF PARKED VEHICLE'S PASSENGER COMPARTMENT AS A CONTEMPORANEOUS INCIDENT OF ARREST

QUESTION: IS THE SEARCH OF A VEHICLE'S PASSENGER COMPARTMENT INCIDENT TO AN ARREST CONFINED TO SITUATIONS IN WHICH THE POLICE INITIATE CONTACT WITH THE OCCUPANT WHILE HE OR SHE IS IN THE VEHICLE?

ANSWER: NO.

**CASE: *THORNTON V. UNITED STATES*, United States Supreme Court
Decided May 24, 2004**

In a 7-2 decision, the Supreme Court recently amplified the rule announced in its 1981 decision, *New York v. Belton*. In *Belton*, the Court had held that when a police officer has made a lawful custodial arrest of an occupant of an automobile, the Fourth Amendment allows the officer to search the passenger compartment of that vehicle as a contemporaneous incident of arrest. An issue not specifically addressed in *Belton* was whether the rule was to be limited to situations where the officer makes initial contact with the arrestee while he or she is inside the vehicle, or whether it also applied where the officer makes initial contact with the arrestee after he or she has stepped out of the vehicle.

In *Thornton*, the Court reached this issue and concluded that the *Belton* rule applies even when an officer does not make contact until the person arrested has left the vehicle. The Court reasoned that, in all relevant respects, "the arrest of a suspect who is next to a vehicle presents identical concerns regarding officer safety and the destruction of evidence as the arrest of one who is inside the vehicle." In fact, the Court observed that, in some situations, "it may be safer and more effective for officers to conceal their presence from a suspect until he has left his vehicle. Certainly that is a judgment officers should be free to make."

UNRESOLVED ISSUE: Should the *Belton* rule be limited to arrestees who, if not in the vehicle at the time of arrest, were "recent occupants" who were within "reaching distance" of the car? The Court did not address this issue. However, it did observe that the arrestee in *Thornton* was in "close proximity, both temporally and spatially," to his vehicle when the officer approached. As such, it would seem that the *Belton* rule may not

apply in situations where a vehicle has been abandoned or where the “recent occupants” are found at locations or distances from the vehicle which prevent ready access to the passenger compartment.

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