

Reasonable expectation of privacy in stolen vehicle depends on knowledge not bright line rule

Defendant Dqwan Taylor was a passenger in a stolen vehicle back in 2012 when it was pulled over by State Troopers. The driver could not produce registration. Additionally nobody seemed to know who the owner was but just mentioned it belonged to a "friend." The license plate didn't match the vehicle, but the VIN

number came up as stolen five months earlier. Everyone was arrested and Mirandized. After this the vehicle was searched and two handguns were found that nobody accepted responsibility for, and thus everyone was charged with the associated crimes. In addition to the handguns an impound attendant found a loaded magazine while moving the vehicle. Defendant filed a motion to suppress evidence which was denied by the trial

court and the appeal decided May 12, 2015 is the subject of this blog. The trial court held there could be no reasonable expectation of privacy by driver or passenger in a stolen vehicle, regardless of whether they knew the vehicle was stolen.

Both the 4th Amendment of the U.S. Constitution and Article I, Par. 7 of the New Jersey Constitution protect against unreasonable searches and a seizures. A search is unreasonable if there is a

reasonable expectation of privacy. The federal test and New Jersey test are different. Under the 4th Amendment a person has a reasonable expectation of privacy if:

- individual manifests subjective expectation of privacy in object searched
- society recognizes expectation as reasonable

New Jersey has a lower standard for reasonable expectation of privacy that only requires the defendant show the

expectation is reasonable. Note that state constitutions can expand individual rights beyond the Federal Constitution, but they can't limit or reduce them. Expectations of privacy are determined by social norms and in light of this the Court here concluded that whether a reasonable expectation of privacy exists for an individual passenger in a stolen vehicle is a question depending on facts and no bright line strict liability rule applies. In State v. Pace, a

case from 1979, a defendant was found to have a reasonable expectation of privacy in an attaché case found in the trunk of a stolen vehicle. In State v. Lugo, a case from 1991, the opposite was found when it was held that a defendant operating a vehicle known by him to be stolen had no reasonable expectation of privacy in contraband kept inside the vehicle. State v. Bohuk, decided 1994, reiterated Lugo. But, the one thing all the relevant federal

and New Jersey case law have in common is they discuss knowledge. Thus, the Court in this case remanded the issue to the trial court in order to develop the facts and determine whether the defendant had knowledge or lack of knowledge that the vehicle was stolen sufficient enough to make an expectation of privacy reasonable or unreasonable.

Please note that this case does not delve in depth into knowledge itself. If a defendant

did not have explicit knowledge but should have known given the circumstances that a vehicle was stolen and thus cannot have a reasonable expectation of privacy in the contents. The point in this case is simply that knowledge is a factor.