



Administrative Office of the Courts

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Supreme Court rules that warrantless search of car parked at owner's home is unconstitutional

SANTA FE – The state Supreme Court ruled today that constitutional protections were violated by a warrantless search of a car parked at the owner's home after a traffic stop and arrest of the driver.

In a unanimous opinion, the Court concluded that the search was unreasonable based on the facts of the case and prosecutors could not use drug evidence found during an inventory of the car before it was towed and impounded by Farmington police.

Andrew Ontiveros was driving his grandmother's car when he was stopped by police for a cracked windshield and broken taillight. He pulled over after a short distance and parked the car in front of his grandmother's home. He was arrested for driving on a revoked license and because the car lacked an ignition interlock device required for a prior DWI conviction.

A district court denied Ontiveros' motion to suppress evidence of the search. He reserved the right to appeal and conditionally pleaded guilty to a felony charge of possession of a controlled substance – methamphetamine – and a misdemeanor charge of driving with a revoked license.

The state Court of Appeals vacated his convictions after deciding that the inventory search violated the defendant's protections under the Fourth Amendment of the U.S. Constitution. Prosecutors asked the Supreme Court to review the decision, and the justices affirmed the Court of Appeals.

Under the law, the state has an obligation to prove that a warrantless search is reasonable under the circumstances. The justices rejected arguments that an inventory search was reasonable because the car could have been stolen or damaged if left unattended.

In an opinion by Justice Briana H. Zamora, the Court explained that the "community caretaking" function of law enforcement to safeguard a vehicle after an arrest provides a limited exception to the law's requirement for a search warrant but "it should not be countenanced as a broad catch-all justification for warrantless inventory searches."

The Court concluded that because there was “no heightened risk” to the vehicle after the defendant’s arrest, police had no need to impound the car and search it to inventory the contents.

“When no one is immediately available to take possession of a vehicle, law enforcement may have a legitimate non-investigatory reason to impound a vehicle and conduct an inventory search, such as to protect a defendant’s property or to protect themselves from claims or disputes over lost or stolen property. But those non-investigatory reasons evaporate when, as here, law enforcement knows the vehicle is legally parked at the registered owner’s home,” the Court wrote. “Leaving the vehicle where it was parked because no one else could immediately take possession of the vehicle did not subject the vehicle or Defendant’s property to an increased risk of theft or vandalism due to his arrest. Nor did the police have an increased risk of claims or disputes about lost or stolen property as they generally have no community-caretaking duty to protect a vehicle parked on the owner’s property.”

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To read the decision in *State v. Ontiveros*, No. S-1-SC-39186, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/522239/index.do>