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The Washington Supreme Court rules on police search of a car

Posted by [Bruce Ramsey](#)



Chief Justice Barbara Madsen
Washington Supreme Court photo

“No person shall be disturbed in his private affairs, or his home invaded, without authority of law.” That’s the Washington constitution of 1889. Now: how about that bag of meth under the car seat?

The case of [State v. Larry Dean Tyler came down today](#). According to the Washington Supreme Court, Tyler was driving a quarter of a mile west of the Hood Canal Bridge, presumably on S.R. 104. [Jefferson County Deputy Sheriff Brett Anglin](#) stopped him for speeding.

Two men were in the car. Writes [Chief Justice Barbara Madsen](#) in the court’s decision: “The passenger had been making furtive movements...(perhaps) trying to hide what seemed to be a can of beer. It turned out to be an alcoholic caffeinated beverage.”

That wasn’t the issue.

Asked for his drivers’ license, Tyler produced his Medicare card. Not a good sign. Deputy Anglin arrested Tyler for driving with no valid license (it had been suspended), handcuffed him and put him in the patrol car. The man in the passenger seat had outstanding warrants, and he was arrested too.

“Deputy Anglin asked for consent to search the car, but both men refused,” Madsen writes. Neither was the owner. “Tyler told Anglin the owner of the car was his girl friend and she was unable to retrieve the car because she was in jail in another county.” Anglin judged that the car was parked too close to 60-mph traffic—one foot from the fog line— and had to be moved as a matter of public safety. Neither the driver nor the passenger had a valid license to drive it, nor could either find anyone by cell phone to come and move the car.

The officer wasn't going to move it. The court decision does not address the question why he didn't move it himself. It accepts that he impounded the vehicle and called a tow truck to move it. These are not issues in the case.

When impounding a vehicle, the police procedure is to conduct an *inventory* of the passenger compartment "to secure personal property and protect the department and the towing company." Some of the property was in the back seat: three amplifiers and a speaker. While inspecting these items, Deputy Anglin noticed a baggie under the driver's seat and retrieved it. It was methamphetamine.

Larry Dean Tyler was arrested for meth. He sued, claiming the bag of meth was found in an illegal search, because there had been no permission, no warrant and it was not incident to a drug arrest.

The lower court said the inventory was OK unless it was a pretext—an excuse—to search for drugs. The court was convinced it was not a pretext because of the deputy's offer to let the two men try to find someone to drive the car. The court thought the cell-phone offer showed that the deputy was trying to be helpful, not searching for contraband. And if he found it when not looking for it, it was OK to arrest the driver for it.

The Court of Appeals agreed, and so did the Washington Supreme Court, 8-1.

There is a problem. It is an internal police email in which Anglin requested training as a K-9 officer. Referring to a court decision ([Arizona v. Gant](#)) that limited warrantless searches, Anglin wrote:

The obvious way to circumvent this is impounding the vehicle and performing an inventory search. The problem with this is that we must afford the person the chance to contact someone else and determine if it is safely off of the roadway or not. It also obviously limits what we can search as well.

The Court's majority didn't think this was a big enough problem to change their ruling. But [Justice Tom Chambers](#) wrote in dissent, "This evidence, together with the other facts of this case, persuades me... that the purpose of the search was to investigate criminal activity..." Chambers went further, challenging the practice of inventory itself: "The pretense that police officers are doing these searches for the benefit of the person whose privacy is invaded and whose property is searched is not tenable... The accused's declaration that he does not want his property searched undermines any notion the search is for the benefit of the accused... I would hold that the so-called 'inventory' searches in the presence of the owner of the vehicle are indistinguishable from ordinary searches and that the full protections of our constitution should apply."

I agree with Chambers. He is, however, [retired](#).