ARIZONA v. GANT

Supreme Court of the United States, 2009.
556 U.S. 332, 129 S.Ct. 1710, 173 L.Ed.2d 485.

JUSTICE STEVENS delivered the opinion of the Court [joined by JUSTICES SCALIA, SOUTER, THOMAS, and GINSBURG].

After Rodney Gant was arrested for driving with a suspended license, handcuffed, and locked in the back of a patrol car, police officers searched his car and discovered cocaine in the pocket of a jacket on the backseat. Because Gant could not have accessed his car to retrieve weapons or evidence at the time of the search, the Arizona Supreme Court held that the search-incident-to-arrest exception to the Fourth Amendments warrant requirement, as defined in *Chimel* v. *California*, [p. 256] and applied to vehicle searches in *New York* v. *Belton*, [p. 279], did not justify the search in this case. We agree with that conclusion.

Under *Chimel*, police may search incident to arrest only the space within an arrestee's immediate control, meaning the area from within which he might gain possession of a weapon or destructible evidence. The safety and evidentiary justifications underlying *Chimel*'s reaching-distance rule determine *Belton*'s scope. Accordingly, we hold that *Belton* does not authorize a vehicle search incident to a recent occupant's arrest after the arrestee has been secured and cannot access the interior of the vehicle. Consistent with the holding in *Thornton* v. *United States*, [p. 287, Note 7], and following the suggestion in Justice Scalia's opinion concurring in the judgment in that case, we also conclude that circumstances unique to the automobile context justify a search incident to arrest when it is reasonable to believe that evidence of the offense of arrest might be found in the vehicle.

I

[The police had reliable information that there was an outstanding warrant for the arrest of Rodney Gant for driving with a suspended license. Officers proceeded to the house where they expected to find Gant. Shortly thereafter, Gant drove into the driveway. He was arrested after he got out of his car. Gant was handcuffed and placed in a locked patrol car. Two officers then searched his vehicle and discovered a gun, as well as a bag of cocaine in the pocket of a jacket on the backseat.]

Gant was charged with two offenses—possession of a narcotic drug for sale and possession of drug paraphernalia (*i.e.*, the plastic bag in which the cocaine was found). He moved to suppress the evidence seized from his car on the ground that the warrantless search violated the Fourth Amendment. * * * Gant argued that *Belton* did not authorize the search of his vehicle because he posed no threat to the officers after he was handcuffed in the patrol car and because he was arrested for a traffic offense for which no evidence could be found in his vehicle. When asked at

the suppression hearing why the search was conducted, Officer Griffith responded: "Because the law says we can do it."

The trial court * * * denied the motion to suppress. * * *

After protracted state-court proceedings, the Arizona Supreme Court concluded that the search of Gant's car was unreasonable within the meaning of the Fourth Amendment. The court's opinion discussed at length our decision in *Belton* * * *. The court distinguished *Belton* as a case concerning the permissible scope of a vehicle search incident to arrest and concluded that it did not answer "the threshold question whether the police may conduct a search incident to arrest at all once the scene is secure." Relying on our earlier decision in *Chimel*, the court observed that the search-incident-to-arrest exception to the warrant requirement is justified by interests in officer safety and evidence preservation. When "the justifications underlying *Chimel* no longer exist because the scene is secure and the arrestee is handcuffed, secured in the back of a patrol car, and under the supervision of an officer," the court concluded, a "warrantless search of the arrestee's car cannot be justified as necessary to protect the officers at the scene or prevent the destruction of evidence." Accordingly, the court held that the search of Gant's car was unreasonable. * * *

The chorus that has called for us to revisit *Belton* includes courts, scholars, and Members of this Court who have questioned that decision's clarity and its fidelity to Fourth Amendment principles. We therefore granted the State's petition for certiorari.

II

Consistent with our precedent, our analysis begins, as it should in every case addressing the reasonableness of a warrantless search, with the basic rule that "searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." Among the exceptions to the warrant requirement is a search incident to a lawful arrest. * * *

In *Chimel*, we held that a search incident to arrest may only include "the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence." That limitation, which continues to define the boundaries of the exception, ensures that the scope of a search incident to arrest is commensurate with its purposes of protecting arresting officers and safeguarding any evidence of the offense of arrest that an arrestee might conceal or destroy. If there is no possibility that an arrestee could reach into the area that law enforcement officers seek to search, both justifications for the search-incident-to-arrest exception are absent and the rule does not apply.

In *Belton*, we considered *Chimel*'s application to the automobile context. * * *

* * * [W]e held that when an officer lawfully arrests "the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of the automobile" and any containers therein. That holding was based in large part on our assumption "that articles inside the relatively narrow compass of the passenger compartment of an automobile are in fact generally, even if not inevitably, within 'the area into which an arrestee might reach.' "

The Arizona Supreme Court read our decision in *Belton* as merely delineating "the proper scope of a search of the interior of an automobile" incident to an arrest. That is, *when* the passenger compartment is within an arrestee's reaching distance, *Belton* supplies the generalization that the entire compartment and any containers therein may be reached. On that view of *Belton*, the state court concluded that the search of Gant's car was unreasonable because Gant clearly could not have accessed his car at the time of the search. * * *

Gant now urges us to adopt the reading of *Belton* followed by the Arizona Supreme Court.

III

Despite the textual and evidentiary support for the Arizona Supreme Court's reading of *Belton*, our opinion has been widely understood to allow a vehicle search incident to the arrest of a recent occupant even if there is no possibility the arrestee could gain access to the vehicle at the time of the search. This reading may be attributable to Justice Brennan's dissent in *Belton*, in which he characterized the Court's holding as resting on the "fiction * * * that the interior of a car is *always* within the immediate control of an arrestee who has recently been in the car." * * *

* * * As Justice O'Connor observed [in *Thornton*], "lower court decisions seem now to treat the ability to search a vehicle incident to the arrest of a recent occupant as a police entitlement rather than as an exception justified by the twin rationales of *Chimel*." Justice Scalia has similarly noted that, although it is improbable that an arrestee could gain access to weapons stored in his vehicle after he has been handcuffed and secured in the backseat of a patrol car, cases allowing a search in "this precise factual scenario * * * are legion." * * *

Under this broad reading of *Belton*, a vehicle search would be authorized incident to every arrest of a recent occupant notwithstanding that in most cases the vehicle's passenger compartment will not be within the arrestee's reach at the time of the search. To read *Belton* as authorizing a vehicle search incident to every recent occupant's arrest would thus untether the rule from the justifications underlying the *Chimel* exception

* * *. Accordingly, we reject this reading of *Belton* and hold that the *Chimel* rationale authorizes police to search a vehicle incident to a recent occupant's arrest only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search.

Although it does not follow from *Chimel*, we also conclude that circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is "reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle." In many cases, as when a recent occupant is arrested for a traffic violation, there will be no reasonable basis to believe the vehicle contains relevant evidence. But in others, including *Belton* and *Thornton*, the offense of arrest will supply a basis for searching the passenger compartment of an arrestee's vehicle and any containers therein.

Neither the possibility of access nor the likelihood of discovering offense-related evidence authorized the search in this case. * * * Because police could not reasonably have believed either that Gant could have accessed his car at the time of the search or that evidence of the offense [of driving with a suspended license] for which he was arrested might have been found therein, the search in this case was unreasonable.

IV

The State * * * asks us to uphold the search of his vehicle under the broad reading of *Belton* discussed above. The State argues that *Belton* searches are reasonable regardless of the possibility of access in a given case because that expansive rule correctly balances law enforcement interests, including the interest in a bright-line rule, with an arrestee's limited privacy interest in his vehicle.

* * * [W]e reject the State's argument. * * * [T]he State seriously undervalues the privacy interests at stake. * * * It is particularly significant that *Belton* searches authorize police officers to search not just the passenger compartment but every purse, briefcase, or other container within that space. A rule that gives police the power to conduct such a search whenever an individual is caught committing a traffic offense, when there is no basis for believing evidence of the offense might be found in the vehicle, creates a serious and recurring threat to the privacy of countless individuals. Indeed, the character of that threat implicates the central concern underlying the Fourth Amendment—the concern about giving police officers unbridled discretion to rummage at will among a person's private effects.

At the same time as it undervalues these privacy concerns, the State exaggerates the clarity that its reading of *Belton* provides. Courts that have read *Belton* expansively are at odds regarding how close in time to the arrest and how proximate to the arrestee's vehicle an officer's first contact with the arrestee must be to bring the encounter within *Belton*'s purview

and whether a search is reasonable when it commences or continues after the arrestee has been removed from the scene. The rule has thus generated a great deal of uncertainty, particularly for a rule touted as providing a "bright line." * * *

* * * Construing *Belton* broadly to allow vehicle searches incident to any arrest would serve no purpose except to provide a police entitlement, and it is anathema to the Fourth Amendment to permit a warrantless search on that basis. * * *

V

Our dissenting colleagues argue that the doctrine of *stare decisis* requires adherence to a broad reading of *Belton* even though the justifications for searching a vehicle incident to arrest are in most cases absent.[9] The doctrine of *stare decisis* is of course "essential to the respect accorded to the judgments of the Court and to the stability of the law," but it does not compel us to follow a past decision when its rationale no longer withstands "careful analysis."

* * * The safety and evidentiary interests that supported the search in *Belton* simply are not present in this case. Indeed, it is hard to imagine two cases that are factually more distinct, as *Belton* involved one officer confronted by four unsecured arrestees suspected of committing a drug offense and this case involves several officers confronted with a securely detained arrestee apprehended for driving with a suspended license. This case is also distinguishable from *Thornton*, in which the petitioner was arrested for a drug offense. It is thus unsurprising that Members of this Court who concurred in the judgments in *Belton* and *Thornton* also concur in the decision in this case.

We do not agree with the contention in Justice Alito's dissent * * * that consideration of police reliance interests requires a different result. Although it appears that the State's reading of *Belton* has been widely taught in police academies and that law enforcement officers have relied on the rule in conducting vehicle searches during the past 28 years, many of these searches were not justified by the reasons underlying the *Chimel* exception. Countless individuals guilty of nothing more serious than a traffic violation have had their constitutional right to the security of their private effects violated as a result. The fact that the law enforcement community may view the State's version of the *Belton* rule as an entitlement does not establish the sort of reliance interest that could

[9] Justice Alito's dissenting opinion * * * accuses us of "overrul[ing]" *Belton* and *Thornton* v. *United States*, "even though respondent Gant has not asked us to do so." Contrary to that claim, the narrow reading of *Belton* we adopt today is precisely the result Gant has urged. That Justice Alito has chosen to describe this decision as overruling our earlier cases does not change the fact that the resulting rule of law is the one advocated by respondent.

outweigh the countervailing interest that all individuals share in having their constitutional rights fully protected. * * *

The experience of the 28 years since we decided *Belton* has shown that the generalization underpinning the broad reading of that decision is unfounded. We now know that articles inside the passenger compartment are rarely "within 'the area into which an arrestee might reach,' " and blind adherence to *Belton*'s faulty assumption would authorize myriad unconstitutional searches. The doctrine of *stare decisis* does not require us to approve routine constitutional violations.

VI

Police may search a vehicle incident to a recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest. When these justifications are absent, a search of an arrestee's vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies. * * * Accordingly, the judgment of the State Supreme Court is affirmed.

JUSTICE SCALIA, concurring.

To determine what is an "unreasonable" search within the meaning of the Fourth Amendment, we look first to the historical practices the Framers sought to preserve; if those provide inadequate guidance, we apply traditional standards of reasonableness. Since the historical scope of officers' authority to search vehicles incident to arrest is uncertain, traditional standards of reasonableness govern. * * *

Justice Stevens * * * would * * * retain the application of *Chimel* v. *California* in the car-search context but would apply in the future what he believes our cases held in the past: that officers making a roadside stop may search the vehicle so long as the "arrestee is within reaching distance of the passenger compartment at the time of the search." I believe that this standard fails to provide the needed guidance to arresting officers and also leaves much room for manipulation, inviting officers to leave the scene unsecured (at least where dangerous suspects are not involved) in order to conduct a vehicle search. In my view we should simply abandon the *Belton-Thornton* charade of officer safety and overrule those cases. I would hold that a vehicle search incident to arrest is *ipso facto* "reasonable" only when the object of the search is evidence of the crime for which the arrest was made, or of another crime that the officer has probable cause to believe occurred. Because respondent was arrested for driving without a license (a crime for which no evidence could be expected to be found in the vehicle), I would hold in the present case that the search was unlawful. * * *

No other Justice, however, shares my view that application of *Chimel* in this context should be entirely abandoned. It seems to me unacceptable for the Court to come forth with a 4-to-1-to-4 opinion that leaves the governing rule uncertain. I am therefore confronted with the choice of either leaving the current understanding of *Belton* and *Thornton* in effect, or acceding to what seems to me the artificial narrowing of those cases adopted by Justice Stevens. The latter, as I have said, does not provide the degree of certainty I think desirable in this field; but the former opens the field to what I think are plainly unconstitutional searches—which is the greater evil. I therefore join the opinion of the Court.

JUSTICE BREYER, dissenting.

I agree with Justice Alito that *New York* v. *Belton* is best read as setting forth a bright-line rule that permits a warrantless search of the passenger compartment of an automobile incident to the lawful arrest of an occupant—regardless of the danger the arrested individual in fact poses. I also agree with Justice Stevens, however, that the rule can produce results divorced from its underlying Fourth Amendment rationale. For that reason I would look for a better rule—were the question before us one of first impression.

The matter, however, is not one of first impression, and that fact makes a substantial difference. * * * Principles of *stare decisis* must apply, and those who wish this Court to change a well-established legal precedent—where, as here, there has been considerable reliance on the legal rule in question—bear a heavy burden. I have not found that burden met. * * * I consequently join Justice Alito's dissenting opinion with the exception of Part II-E.

JUSTICE ALITO, with whom THE CHIEF JUSTICE ROBERTS and JUSTICE KENNEDY join, and with whom JUSTICE BREYER joins except as to Part II-E, dissenting.

* * * Today's decision effectively overrules [*Belton* and *Thornton*], even though respondent Gant has not asked us to do so.

To take the place of the overruled precedents, the Court adopts a new two-part rule under which a police officer who arrests a vehicle occupant or recent occupant may search the passenger compartment if (1) the arrestee is within reaching distance of the vehicle at the time of the search or (2) the officer has reason to believe that the vehicle contains evidence of the offense of arrest. The first part of this new rule may endanger arresting officers and is truly endorsed by only four Justices; Justice Scalia joins solely for the purpose of avoiding a "4-to-1-to-4 opinion." The second part of the new rule is taken from Justice Scalia's separate opinion in *Thornton* * * * . * * * I would follow *Belton*, and I therefore respectfully dissent.

I

Although the Court refuses to acknowledge that it is overruling *Belton* and *Thornton*, there can be no doubt that it does so. * * *

The precise holding in *Belton* could not be clearer. The Court stated unequivocally: " '[W]e hold that when a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile."

Despite this explicit statement, the opinion of the Court in the present case curiously suggests that *Belton* may reasonably be read as adopting a holding that is narrower than the one explicitly set out in the *Belton* opinion, namely, that an officer arresting a vehicle occupant may search the passenger compartment "*when* the passenger compartment is within an arrestee's reaching distance." According to the Court, the broader reading of *Belton* that has gained wide acceptance may be attributable to Justice Brennan's dissent."

Contrary to the Court's suggestion, however, Justice Brennan's *Belton* dissent did not mischaracterize the Court's holding in that case or cause that holding to be misinterpreted. As noted, the *Belton* Court explicitly stated precisely what it held. * * * [The *Belton*] "bright-line rule" has now been interred.

II

Because the Court has substantially overruled *Belton* and *Thornton*, the Court must explain why its departure from the usual rule of *stare decisis* is justified. I recognize that stare decisis is not an "inexorable command," and applies less rigidly in constitutional cases. But the Court has said that a constitutional precedent should be followed unless there is a " 'special justification' " for its abandonment. Relevant factors identified in prior cases include whether the precedent has engendered reliance, whether there has been an important change in circumstances in the outside world, whether the precedent has proved to be unworkable, whether the precedent has been undermined by later decisions, and whether the decision was badly reasoned. These factors weigh in favor of retaining the rule established in *Belton*.

A

Reliance. * * *

* * * [T]here certainly is substantial reliance here. The *Belton* rule has been taught to police officers for more than a quarter century. Many searches—almost certainly including more than a few that figure in cases now on appeal—were conducted in scrupulous reliance on that precedent. It is likely that, on the very day when this opinion is announced, numerous

vehicle searches will be conducted in good faith by police officers who were taught the *Belton* rule.

The opinion of the Court recognizes [this] * * * . But for the Court, this seemingly counts for nothing. * * *

B

Changed circumstances. Abandonment of the *Belton* rule cannot be justified on the ground that the dangers surrounding the arrest of a vehicle occupant are different today than they were 28 years ago. * * * [S]urely it was well known in 1981 that a person who is taken from a vehicle, handcuffed, and placed in the back of a patrol car is unlikely to make it back into his own car to retrieve a weapon or destroy evidence.

C

Workability. The *Belton* rule has not proved to be unworkable. On the contrary, the rule was adopted for the express purpose of providing a test that would be relatively easy for police officers and judges to apply. * * *

D

Consistency with later cases. The *Belton* bright-line rule has not been undermined by subsequent cases. On the contrary, that rule was reaffirmed and extended just five years ago in *Thornton.*

E

Bad reasoning. The Court is harshly critical of *Belton*'s reasoning, but the problem that the Court perceives cannot be remedied simply by overruling *Belton. Belton* represented only a modest—and quite defensible—extension of *Chimel*, as I understand that decision. * * *

* * * *Chimel* did not say whether "the area from within which [an arrestee] might gain possession of a weapon or destructible evidence" is to be measured at the time of the arrest or at the time of the search, but unless the *Chimel* rule was meant to be a specialty rule, applicable to only a few unusual cases, the Court must have intended for this area to be measured at the time of arrest.

This is so because the Court can hardly have failed to appreciate the following two facts. First, in the great majority of cases, an officer making an arrest is able to handcuff the arrestee and remove him to a secure place before conducting a search incident to the arrest. Second, because it is safer for an arresting officer to secure an arrestee before searching, it is likely that this is what arresting officers do in the great majority of cases. * * * Thus, if the area within an arrestee's reach were assessed, not at the time of arrest, but at the time of the search, the *Chimel* rule would rarely come into play. * * *

I do not think that this is what the *Chimel* Court intended. Handcuffs were in use in 1969. The ability of arresting officers to secure arrestees before conducting a search—and their incentive to do so—are facts that can hardly have escaped the Court's attention. I therefore believe that the *Chimel* Court intended that its new rule apply in cases in which the arrestee is handcuffed before the search is conducted.

The *Belton* Court, in my view, proceeded on the basis of this interpretation of *Chimel*. * * * Viewing *Chimel* as having focused on the time of arrest, *Belton*'s only new step was to eliminate the need to decide on a case-by-case basis whether a particular person seated in a car actually could have reached the part of the passenger compartment where a weapon or evidence was hidden. For this reason, if we are going to reexamine *Belton*, we should also reexamine the reasoning in *Chimel* on which *Belton* rests.

F

The Court, however, does not reexamine *Chimel* and thus leaves the law relating to searches incident to arrest in a confused and unstable state. The first part of the Court's new two-part rule—which permits an arresting officer to search the area within an arrestee's reach at the time of the search—applies, at least for now, only to vehicle occupants and recent occupants, but there is no logical reason why the same rule should not apply to all arrestees.

The second part of the Court's new rule, which the Court takes uncritically from Justice Scalia's separate opinion in *Thornton*, raises doctrinal and practical problems that the Court makes no effort to address. Why, for example, is the standard for this type of evidence-gathering search "reason to believe" rather than probable cause? And why is this type of search restricted to evidence of the offense of arrest? It is true that an arrestee's vehicle is probably more likely to contain evidence of the crime of arrest than of some other crime, but if reason-to-believe is the governing standard for an evidence-gathering search incident to arrest, it is not easy to see why an officer should not be able to search when the officer has reason to believe that the vehicle in question possesses evidence of a crime other than the crime of arrest.

Nor is it easy to see why an evidence-gathering search incident to arrest should be restricted to the passenger compartment. The *Belton* rule was limited in this way because the passenger compartment was considered to be the area that vehicle occupants can generally reach, but since the second part of the new rule is not based on officer safety or the preservation of evidence, the ground for this limitation is obscure.[2]

[2] I do not understand the Court's decision to reach the following situations. First, it is not uncommon for an officer to arrest some but not all of the occupants of a vehicle. The Court's decision in this case does not address the question whether in such a situation a search of the

III

Respondent in this case has not asked us to overrule *Belton*, much less *Chimel*. Respondent's argument rests entirely on an interpretation of *Belton* that is plainly incorrect, an interpretation that disregards *Belton*'s explicit delineation of its holding. I would therefore leave any reexamination of our prior precedents for another day, if such a reexamination is to be undertaken at all. In this case, I would simply apply *Belton* and reverse the judgment below.

NOTES AND QUESTIONS

1. Who has the better view, the *Gant* majority or the dissent, as to the correct reading of *Belton*? Did the *Belton* Court intend the narrow interpretation the *Gant* Court applies here? Which view of stare decisis do you prefer?

2. In the second paragraph of the majority opinion, Justice Stevens states that a warrantless search incident to a lawful arrest is permissible, even if the arrestee no longer has access to the passenger compartment, "when it is reasonable to believe that evidence of the offense of arrest might be found in the vehicle." In Part VI, this portion of the *Gant* test is stated as follows: when it is "reasonable to believe the vehicle contains evidence of the offense of arrest." Are these two statements functionally the same? Furthermore, Justice Alito points out that the majority did not use the term "probable cause." In this context, is "reasonable to believe" a lesser standard than "probable cause"?

3. *Problem.* In view of *Gant*, would a warrantless search of the passenger compartment of a vehicle be permissible to search for illegal weapons, after the driver of the vehicle (now handcuffed and in the police vehicle) is arrested for possession of a prohibited weapon? See United States v. Vinton, 594 F.3d 14 (D.C. Cir. 2010). What if the person is arrested for driving under the influence of alcohol: would it permissible to search the car for open containers of alcohol? Taylor v. State, 137 A.3d 1029 (Md. 2016); United States v. Taylor, 49 A.3d 818 (D.C. Ct. App. 2012).

c. Pretextual Stops and Arrests (Particularly in Automobiles)

Introductory Comment

Consider for a moment State v. Ladson, 138 Wash.2d 343, 979 P.2d 833 (1999):

> On October 5, 1995 City of Lacey police officer Jim Mack and Thurston County sheriff's detective Cliff Ziesmer were on

passenger compartment may be justified on the ground that the occupants who are not arrested could gain access to the car and retrieve a weapon or destroy evidence. Second, there may be situations in which an arresting officer has cause to fear that persons who were not passengers in the car might attempt to retrieve a weapon or evidence from the car while the officer is still on the scene. The decision in this case, as I understand it, does not address that situation either.