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# Carroll v. U.S.

## AUTOMOBILE SEARCHES UNDER THE CARROLL RULE.

The law of search and seizure under the so called "automobile exception" has been the subject of many recent U.S. Supreme Court decisions over the past three years. A look at the present state of the law would seem to be helpful at this time.

The leading case in this area is Carroll v. U.S. 267 U.S. 132. This case was decided in 1925 following a warrantless search of an automobile that led to a conviction in a boot-legging case. In Carroll, the court first recognized the difference between vehicles and other protected areas. The court stated:

the guaranty of freedom from unreasonable searches and seizures by the Fourth Amendment has been construed, practically since the beginning of the government, as recognizing a necessary difference between a search of a store, dwelling house or other structure in respect of which a proper official warrant readily may be obtained, and a search of a ship, motor boat, wagon or automobile, for contraband goods, where it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality

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or jurisdiction in which the warrant must be sought. Id at 153.

Automobiles, trucks, boats and planes may be searched without a search warrant, consent or a prior arrest if an officer can show:

1. That there is probable cause to believe evidence or contraband is therein, and ,
2. That because of the mobility of the vehicle there is not time to obtain a search warrant before the vehicle could be moved.

Under the Carroll rule, the search of a motor vehicle does not have to be



preceded by an arrest. It is the probable cause and lack of time to obtain a warrant that justifies the search.

The extent of a search based on the Carroll doctrine is addressed in U.S. v. Ross, CrL 3051 (1982). In Ross, the question was whether evidence and contraband found in the trunk of a car inside a closed container should be excluded from trial even though officers had probable cause to believe that the contraband was somewhere in the car and there was no time to obtain a search warrant. The officers did not know whether or not the contraband was in a closed container at the time of the search.

The court upheld the search and seizure in Ross and stated:

The scope of the warrantless search of an automobile thus is not defined by the nature of the container in which the contraband is secreted. Rather it is defined by the object of the search and the places in which there is probable cause to believe that it may be found. Just as probable cause to believe a stolen lawn mower may be found in a garage, will not support a warrant to an upstairs bedroom, probable cause to believe that undocumented aliens are being transported in a van will not justify a warrantless search of a suitcase. Probable cause to believe that a container placed in the trunk of a taxi contains contraband or evidence does not justify a search of the entire cab. Ross at CrL 3058.

While Ross deals with the situation where the officers did not have probable cause to believe the contraband was in a closed container, the situation is quite different where the officer has probable cause to believe the contraband is in a specific container, even if the container is in an automobile.

The Court has made it clear that if the contraband is known to be in a specific container in the motor vehicle, the container cannot be searched without a warrant. U.S. v. Chadwick, 433 U.S. 1, and Arkansas v. Sanders, 442 U.S. 753.

When conducting searches under the Carroll doctrine, officers:

1. May search closed containers if the probable cause did not include the fact that the contraband was in a specific closed container.
2. May not search closed containers if the probable cause included the fact that the contraband was in a specific closed container.

The above rule should not be confused with the recent ruling in New York v. Belton, (1981) wherein the U.S. Supreme Court ruled that an officer who makes an arrest of the occupants of an automobile may search the entire passenger compartment of the car in which the arrestee was an occupant. The search may encompass the entire passenger compartment and all closed containers found therein (but not locked containers).

The justification for the search of the passenger compartment is that the arrestee was in the car and that the car was under his immediate control, at the time of the arrest, thus a threat to the officer's life exists since a weapon could be acquired by the arrestee in an attempt to escape. The search should be contemporaneous with the arrest, otherwise any evidence discovered might be excluded if the search is too long after the arrest.

This search may be made irrespective of the charges, but the trunk of an automobile may not be searched incident to the arrest of occupants of the automobile.

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