




Las Vegas Police Protective Association Metro, Inc.



To: Detective Kirk Hooten
From: David Roger, General Counsel 
Re: Consent- Scope of Automobile Searches
Date: April 29, 2014

This memo will address the scope of consensual automobile searches.

Assuming a driver has voluntarily consented to allowing an officer to search his vehicle, courts will consider whether it is objectively reasonable for the officer to believe the scope of the suspect's consent included the areas and items searched.

In *Florida v. Jimeno*,¹ a police officer advised the driver that he believed the suspect was carrying narcotics in his vehicle and asked permission to search the car for drugs. The driver stated he had nothing to hide and granted the officer permission to search the automobile. During the search, the officer found a folded, paper bag on the floorboard. Upon opening the bag, officers found a kilogram of cocaine inside.

In upholding the search, the United States Supreme Court explained, "The standard for measuring the scope of a suspect's consent under the Fourth Amendment is that of "objective" reasonableness-what would the typical reasonable person have understood by the exchange between the officer and the suspect? The question before us, then, is whether it is reasonable for an officer to consider a suspect's general consent to a search of his car to include consent to examine a paper bag lying on the floor of the car. We think that it is."

¹ *Florida v. Jimeno*, 500 U.S. 248, 111 S.Ct. 1801 (1991).
9330 W. Lake Mead Blvd., #200 - Las Vegas - Nevada - 89134
Phone: (702) 384-8692 - Fax: (702) 384-7989
Email: office@lvppa.com - Website: www.lvppa.com

The court concluded, "We think that it was objectively reasonable for the police to conclude that the general consent to search respondent's car included consent to search containers within that car which might bear drugs. A reasonable person may be expected to know that narcotics are generally carried in some form of a container. "Contraband goods rarely are strewn across the trunk or floor of a car."

Following the US Supreme Court's lead, the Nevada Supreme Court retreated from cases in which they held that officers could not dismantle a vehicle based upon a suspect's general consent to search.²

The Nevada Supreme Court explained the appropriate standard:

The scope of consent is determined by examining the totality of the circumstances. Relevant considerations with respect to the scope of consent include "any express or implied limitations regarding the time, duration, area, or intensity of police activity necessary to accomplish the stated purpose of the search, as well as the expressed object of the search."

When applying this "totality of the circumstances" test, courts must address whether an objectively reasonable officer would have believed that the scope of the suspect's consent permitted the action in question, not whether there has been a "dismantling" of the vehicle.

Therefore, unless a driver expressly limits his consent to search, an officer may search any place, which may conceal the items sought.

² *State v. Ruscetta*, 123 Nev. 299, 163 P.3d 451 (2007).