

SEARCH AND SEIZURE VEHICLE IN THE GARAGE

On September 28, 2018, the Indiana Court of Appeals issued its decisions in State v. Lucas, ___ N.E.3d ___ (Ind. Ct. App. 2018). Police responded to a battery report. The victim had fled the home where the battery had occurred. The police then secured a search warrant for the premises, described in the search warrant as a “two story [sic] home with an attached two car garage . . .” to search for and seize “clothing, baseball bat, a cellular phone, U.S. currency, blood evidence or any evidence relating to an assault and/or theft occurring with said residence.” When they executed the search warrant, they found blood about the home and bloody baseball bat. One of the officers went through a door from the living room into the attached garage. Next to a black vehicle, he found a bloodied jacket. He looked inside the vehicle and saw a large mound in the back seat covered by a blanket. He reached inside a partially opened window, pulled the blanket aside, and saw what he recognized as controlled substances. Police then stopped the search and obtained a second warrant to search the home and vehicle for evidence of possession or dealing drugs. Lucas was charged with unlawful possession of a firearm by a serious violent felon, dealing in a synthetic drug, and maintaining a common nuisance.

Lucas filed a motion to suppress alleging that the search of the vehicle exceeded the scope of the search warrant. The trial court granted the motion to suppress, and the state appealed. On appeal the State argued that the search warrant permitted a search of the garage; therefore, any containers found in the garage, including the vehicle were searchable under the parameters of the warrant. The defendant did not file an appellate brief, and no argument was made by defendant that the officer’s actions were not permitted by Article I, Section 11 of the Indiana Constitution.

The Court found that “under the Fourth Amendment, a search warrant authorizing a search of a particularly described premises permits the search of vehicles owned or controlled by the owner of, and found on, the premises.” The court reasoned that when the officer entered the garage, he had not found the cell phone or the currency. He was permitted to search the black vehicle and lift the blanket covering the mound because the vehicle and the mound were capable of concealing either or both of those items. Therefore, the court’s granting of the motion to suppress was reversed.

This decision should be read with some caution. The Indiana Constitution’s search and seizure provision was not argued to the Court. Also, while the language of this decision appears broad, the facts are specific. Had the vehicle been located within the curtilage, rather than inside the garage, the result may have been different. See U.S. v. Griffin, 827 F.2d 1108, 1113, fn. 3 (7th Cir. 1987) (“the better practice would be to include a description of the occupant’s vehicle in the warrant when the warrant is intended to extend to the car”).

SEARCH AND SEIZURE VEHICLE PASSENGER IN A TRAFFIC STOP

On September 28, 2018, the Indiana Court of Appeals issued its decisions in Eaton v. State, ___ N.E.3d ___ (Ind. Ct. App. 2018). The detective in this case was conducting surveillance for gang activity at a residence. He observed a group of people leave the residence in a black car with heavily tinted windows. Two of the car's turn signals were not working, and the car was travelling above the posted speed limit. The detective signaled a traffic stop, and the car pulled over immediately. Eaton opened the rear passenger door and started to get out. The detective got out of his car, quickly approached Eaton, and shouted for him to get back in the car. The detective observed Eaton place his hand at his waistband; he also saw seven passengers in the car. He gave multiple commands to them to place their hands on their heads, but not all complied. One was seen to reach between his legs to the floor of the car. Eaton continued to touch his waistband while using his other hand to pull himself from the car. The detective had not yet had the opportunity to radio for help. He put his hand on Eaton's chest to keep him inside the car, and Eaton continued to push back. The detective drew his gun, and threatened to shoot if they did not obey his command. He then called for help, and other officers arrived.

Eaton was handcuffed and taken from the car. A handgun was discovered when his loose fitting pants fell down. He did not have a valid permit. Eaton was charged with unlawful possession of a firearm by a serious violent felon and resisting law enforcement. He filed a motion to suppress, which the court denied. He was found guilty at a bench trial, and appealed his conviction on the grounds that the evidence of his guilt was obtained in violation of the Fourth Amendment and Article I, § 11 of the Indiana Constitution.

The Court found that the detective's initial detention of Eaton was reasonable. He was "constitutionally permitted to order Eaton back into the car for a brief period to assess the situation and address safety issues." Using his hand to restrain Eaton was not excessive force and was a reasonable attempt to control Eaton. When Eaton pushed back and struggled to get out, the detective had probable cause to arrest him for resisting law enforcement. When the detective drew his gun, he already had probable cause to arrest Eaton; therefore, drawing his gun did not violate Eaton's rights. The discovery of the gun was incident to Eaton's arrest. Similarly, the admission of the handgun did not violate Article I, § 11. Eaton's conviction was affirmed.