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COMMONWEALTH v. Atreyo CROWLEY-CHESTER

The Supreme Judicial Court of Massachusetts

Decided March 9, 2017

POINT(S) OF LAW:

In order to impound a motor vehicle out of concern for theft or vandalism (after arresting the operator) the police must show that there is evidence of theft or vandalism of motor vehicles in the area.

FACTS:

The Springfield police came upon two men sitting in a parked, but running, motor vehicle in a high crime area. After observing furtive movements the men were ordered out of the vehicle. Crack cocaine fell to the ground when the operator exited. The operator of the vehicle was arrested. The operator asked that the passenger be allowed to take custody of the vehicle but the passenger did not have a license. The vehicle was subsequently towed and during the inventory a firearm was located.

The officers' reasoning for the tow was that the area was a high crime area and there was concern that if it was left behind it may be subject to theft or vandalism. The prosecution presented evidence that there were numerous gun violations, gang activity, and domestic violence offenses in the neighborhood over the past six months.

Defendant's argument:

The defendant argued that the impoundment and inventory of the vehicle was unlawful as the officers had no reason to impound the vehicle.

Rule of Law:

A motor vehicle inventory is proper when it is conducted in accordance with written department policy; and the impoundment which lead to the inventory was *reasonably necessary*.

Application of law to this case:

The SJC stated that although the area in question was deemed a high crime area there was no evidence of vehicle thefts or vandalism. The SJC stated "what matters for the purposes of considering the propriety of a motor vehicle impoundment...is not the over-all frequency of crime in the vicinity but the risk of vandalism, theft, or break-in to the motor vehicle."

Conclusion:

The impoundment, and subsequent inventory, was unlawful.

Attorney Hanrahan's Comment:

Many police officers/departments have fallen into the habit of automatically towing every vehicle associated with an arrest. This practice is not legally sound.

Generally, in order to tow a motor vehicle lawfully the police must show that:

1. The vehicle is unsafe (e.g. it is being left in an unsafe location and thus poses a traffic hazard, or the vehicle itself is unsafe, such as leaking fluid, etc. or the vehicle potentially houses unsafe items that may harm the public);
2. The vehicle is unlawfully on the road (e.g. unregistered, uninsured, abandoned, etc.);

3. The vehicle is evidence of a crime (such as a stolen motor vehicle, hit & run, etc.);
4. The vehicle is being impounded as a result of an OUI alcohol arrest (the law requires a 12 hour impoundment when/if the arrestee refuses testing),
5. The operator is being removed from the vehicle as a result of police action (i.e. the operator is being arrested) and no one else is able to take custody of the vehicle on behalf of the operator AND the officer has a reasonable concern that if left at the specific location it may be subject to theft or vandalism (based on a pattern of this type of crime in the area); or it is being left on private property without the consent of the property owner/custodian and thus the officer can tow it to avoid inconvenience to the property owner.

In this case, the SJC also indicated that an additional factor that played into their decision was that the vehicle did not end up at that particular location *as the result of the police* stopping it, the vehicle was already stopped at that location. Thus, more leeway may be granted when the location of the vehicle is caused directly by police action.

Note: This decision overrules a previous decision (and related legal update) wherein the Appeals Court ruled that the impoundment and inventory were lawful.

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