

The Burger Court Opinion Writing Database

New York v. Belton

453 U.S. 454 (1981)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 10, 1981

RE: 80-328 - New York v. Belton

Dear Potter:

I join.

Regards,

A handwritten signature in dark ink, appearing to be 'W. Stewart', written in a cursive style.

Justice Stewart

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 2, 1981

RE: Nos. 80-328 New York v. Belton
80-148 Robbins v. California

Dear Potter:

I'll undertake a dissent in Belton, No. 80-328,
and I may have a few suggestions in Robbins.

Sincerely,



Justice Stewart

cc: The Conference

w/B
Please show me in your dissent
MB

To: The Chief Justice
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

New York v. Belton, No. 80-328

From: Mr. Justice Brennan

Circulated: JUN 15 1981

JUSTICE BRENNAN, dissenting.

Recirculated: _____

Jain

In Chimel v. California, 395 U.S. 752 (1969), this Court carefully analyzed more than 50 years of conflicting precedent governing the permissible scope of warrantless searches incident to custodial arrest. The Court today turns its back on the product of that analysis, formulating an arbitrary "bright line" rule applicable to "recent" occupants of automobiles that fails to reflect Chimel's underlying policy justifications. While the Court claims to leave Chimel intact, see ante, at 6, n.3, I fear that its unwarranted abandonment of the principles underlying that decision may signal a wholesale retreat from our carefully developed search-incident-to-arrest analysis. I dissent.

I

It has long been a fundamental principle of Fourth Amendment analysis that exceptions to the warrant requirement are to be narrowly construed. Arkansas v. Sanders, 442 U.S. 753, 759-760 (1979); Mincey v. Arizona, 437 U.S. 385, 393-394 (1978); Coolidge v. New Hampshire, 403 U.S. 443, 454-455 (1971); Vale v. Louisiana, 399 U.S. 30, 34 (1970); Katz v. United States, 389 U.S. 347, 357 (1967); Jones v. United States, 357 U.S. 493, 499 (1958). Predicated on the Fourth Amendment's essential purpose

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To: The Chief Justice
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Brennan

1st PRINTED DRAFT

Circulated: _____

SUPREME COURT OF THE UNITED STATES

Recirculated JUN 19 1981

No. 80-328

State of New York, Petitioner, } On Writ of Certiorari to the
v. } Court of Appeals of New
Roger Belton. } York.

[June —, 1981]

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, dissenting.

In *Chimel v. California*, 395 U. S. 752 (1969), this Court carefully analyzed more than 50 years of conflicting precedent governing the permissible scope of warrantless searches incident to custodial arrest. The Court today turns its back on the product of that analysis, formulating an arbitrary "bright line" rule applicable to "recent" occupants of automobiles that fails to reflect *Chimel's* underlying policy justifications. While the Court claims to leave *Chimel* intact, see *ante*, at 6, n. 3, I fear that its unwarranted abandonment of the principles underlying that decision may signal a wholesale retreat from our carefully developed search-incident-to-arrest analysis. I dissent.

I

It has long been a fundamental principle of Fourth Amendment analysis that exceptions to the warrant requirement are to be narrowly construed. *Arkansas v. Sanders*, 442 U. S. 753, 759-760 (1979); *Mincey v. Arizona*, 437 U. S. 385, 393-394 (1978); *Coolidge v. New Hampshire*, 403 U. S. 443, 454-455 (1971); *Vale v. Louisiana*, 399 U. S. 30, 34 (1970); *Katz v. United States*, 389 U. S. 347, 357 (1967); *Jones v. United States*, 357 U. S. 493, 499 (1958). Predicated on the Fourth Amendment's essential purpose of "shield[ing] the citizen from unwarranted intrusions into his privacy," *Jones v. United States*, 357 U. S., at 498, this principle carries with it two corollaries. First, for a search to be valid under the

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To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

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1st DRAFT

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SUPREME COURT OF THE UNITED STATES

No. 80-328

State of New York, Petitioner, } On Writ of Certiorari to the
v. } Court of Appeals of New
Roger Belton. } York.

ND

[June —, 1981]

JUSTICE STEWART delivered the opinion of the Court.

When the occupant of an automobile is subjected to a lawful custodial arrest, does the constitutionally permissible scope of a search incident to his arrest include the passenger compartment of the automobile in which he was riding? That is the question at issue in the present case.

I

On April 9, 1978, Trooper Douglas Nicot, a New York State policeman driving an unmarked car on the New York Thruway, was passed by another automobile travelling at an excessive rate of speed. Nicot gave chase, overtook the speeding vehicle, and ordered its driver to pull it over to the side of the road and stop. There were four men in the car, one of whom was Roger Belton, the respondent in this case. The policeman asked to see the driver's license and automobile registration, and discovered that none of the men owned the vehicle or was related to its owner. Meanwhile, the policeman had smelled burnt marihuana and had seen on the floor of the car an envelope marked "Supergold" that he associated with marihuana. He therefore directed the men to get out of the car, and placed them under arrest for the unlawful possession of marihuana. He patted down each of the men and "split them up into four separate areas of the

✓ AS
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draft
STYLISTIC CHANGES THROUGHOUT
SEE PAGES: 123

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

2nd DRAFT

Circulated: _____

SUPREME COURT OF THE UNITED STATES 1 JUN 1981

Recirculated: _____

No. 80-328

State of New York, Petitioner, } On Writ of Certiorari to the
v. } Court of Appeals of New
Roger Belton. } York.

[June —, 1981]

JUSTICE STEWART delivered the opinion of the Court.

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I

On April 9, 1978, Trooper Douglas Nicot, a New York State policeman driving an unmarked car on the New York Thruway, was passed by another automobile travelling at an excessive rate of speed. Nicot gave chase, overtook the speeding vehicle, and ordered its driver to pull it over to the side of the road and stop. There were four men in the car, one of whom was Roger Belton, the respondent in this case. The policeman asked to see the driver's license and automobile registration, and discovered that none of the men owned the vehicle or was related to its owner. Meanwhile, the policeman had smelled burnt marihuana and had seen on the floor of the car an envelope marked "Supergold" that he associated with marihuana. He therefore directed the men to get out of the car, and placed them under arrest for the unlawful possession of marihuana. He patted down each of the men and "split them up into four separate areas of the

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P.6

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

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3rd DRAFT Recirculated: 5 JUN 1981

SUPREME COURT OF THE UNITED STATES

No. 80-328

State of New York, Petitioner, | On Writ of Certiorari to the
v. | Court of Appeals of New
Roger Belton. | York.

[June —, 1981]

JUSTICE STEWART delivered the opinion of the Court.

When the occupant of an automobile is subjected to a lawful custodial arrest, does the constitutionally permissible scope of a search incident to his arrest include the passenger compartment of the automobile in which he was riding? That is the question at issue in the present case.

I

On April 9, 1978, Trooper Douglas Nicot, a New York State policeman driving an unmarked car on the New York Thruway, was passed by another automobile travelling at an excessive rate of speed. Nicot gave chase, overtook the speeding vehicle, and ordered its driver to pull it over to the side of the road and stop. There were four men in the car, one of whom was Roger Belton, the respondent in this case. The policeman asked to see the driver's license and automobile registration, and discovered that none of the men owned the vehicle or was related to its owner. Meanwhile, the policeman had smelled burnt marihuana and had seen on the floor of the car an envelope marked "Supergold" that he associated with marihuana. He therefore directed the men to get out of the car, and placed them under arrest for the unlawful possession of marihuana. He patted down each of the men and "split them up into four separate areas of the

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 3, 1981

Re: 80-328 - New York v. Belton

Dear Potter,

I shall await the dissent.

Sincerely yours,



Justice Stewart

Copies to the Conference

cpm

BFW
Please see
my opinion
M

To: The Chief Justice
Justice Brennan
Justice Stewart
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice White

Circulated: 6/16/81

Recirculated: _____

Re: No. 80-328 - New York v. Belton

JUSTICE WHITE, dissenting.

In Robbins v. California, ___ U.S. ___, it was held that a wrapped container in the trunk of a car could not be searched without a warrant even though the trunk itself could be searched without a warrant because there was probable cause to search the car and even though there was probable cause to search the container as well. This was because of the separate interest in privacy with respect to the container. The Court now holds that as incident to the arrest of the driver or any other person in an automobile, the interior of the car and any container found therein, whether locked or not, may not only be seized but also searched even absent probable cause to believe that contraband or evidence of crime will be found. As to luggage, briefcases or other containers, this seems to me an extreme extension of Chimel and one to which I cannot ascribe. Even if the decision in Robbins had been otherwise and United States v. Chadwick, 433 U.S., and Arkansas v. Sanders, 442 U.S. 753, overruled, it would require at least probable cause to search luggage found in the trunk. The same should be true of closed containers in the interior of the car, at least absent realistic belief that a particular object should be searched to protect the officer or prevent the destruction of evidence.

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
✓ Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rhnquist
Mr. Justice Stevens

From: Mr. Justice White

Circulated: _____

Recirculated: 18 JUN 1981

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-328

State of New York, Petitioner, } On Writ of Certiorari to the
v. } Court of Appeals of New
Roger Belton. } York.

[June —, 1981]

JUSTICE WHITE, dissenting.

In *Robbins v. California*, — U. S. —, it was held that a wrapped container in the trunk of a car could not be searched without a warrant even though the trunk itself could be searched without a warrant because there was probable cause to search the car and even though there was probable cause to search the container as well. This was because of the separate interest in privacy with respect to the container. The Court now holds that as incident to the arrest of the driver or any other person in an automobile, the interior of the car and any container found therein, whether locked or not, may not only be seized but also searched even absent probable cause to believe that contraband or evidence of crime will be found. As to luggage, briefcases or other containers, this seems to me an extreme extension of *Chimel* and one to which I cannot subscribe. Even if the decision in *Robbins* had been otherwise and *United States v. Chadwick*, 433 U. S., 1, and *Arkansas v. Sanders*, 442 U. S. 753, overruled, luggage found in the trunk of a car could not be searched without probable cause to believe it contained contraband or evidence. Here, searches of luggage, briefcases and other containers in the interior of an auto are authorized in the absence of any suspicion whatsoever that they contain anything in which the police have a legitimate interest. This calls for more caution than the Court today exhibits, and, with respect, I dissent.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 2, 1981

Re: No. 80-328 - State of New York v. Belton

Dear Potter:

I await the dissent.

Sincerely,



T.M.

Justice Stewart

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 16, 1981

Re: No. 80-328 - New York v. Belton

Dear Bill:

Please join me in your dissent.

Sincerely,



T.M.

Justice Brennan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 17, 1981

Re: No. 80-328 - New York v. Belton

Dear Byron:

Please join me in your dissent.

Sincerely,

JM

T.M.

Justice White

cc: The Conference

THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 10, 1981

Re: No. 80-328 - New York v. Belton

Dear Potter:

Please join me.

Sincerely,

A handwritten signature in dark ink, appearing to be 'H.A. Blackmun', written over a horizontal line.

Mr. Justice Stewart

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 2, 1981

80-328 New York v. Belton

Dear Potter:

Please join me.

I may write briefly to emphasize the diminished expectation of privacy with respect to what one usually carries in an automobile.

Sincerely,



Mr. Justice Stewart

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 1, 1981

Re: No. 80-328 New York v. Belton

Dear Potter:

While I agree with the result your opinion reaches in this case, I may well write separately.

Sincerely,



Justice Stewart

Copies to the Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Stevens

From: Mr. Justice Rehnquist

Circulated: JUN 5 1981

Recirculated: _____

No. 80-328 New York v. Belton

JUSTICE REHNQUIST, concurring.

Because it is apparent that a majority of the Court is unwilling to overrule Mapp v. Ohio, 367 U.S. 643 (1961), and because the Court does not find it necessary to consider the "automobile exception" in its disposition of this case, ante, at 8, n. 6, see Robbins v. California, ___ U.S. ___ (REHNQUIST, J., dissenting), I join the opinion of the Court.

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To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Stevens

1st PRINTED DRAFT

From: Mr. Justice Rehnquist

SUPREME COURT OF THE UNITED STATES

dated: _____

No. 80-328

Retracted: JUN 9 1981

State of New York, Petitioner, } On Writ of Certiorari to the
v. } Court of Appeals of New
Roger Belton. } York.

[June —, 1981].

JUSTICE REHNQUIST, concurring.

Because it is apparent that a majority of the Court is unwilling to overrule *Mapp v. Ohio*, 367 U. S. 643 (1961), and because the Court does not find it necessary to consider the "automobile-exception" in its disposition of this case, *ante*, at 8, n. 6, see *Robbins v. California*, — U. S. — (REHNQUIST, J., dissenting), I join the opinion of the Court.

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 1, 1981

Re: 80-328 - New York v. Belton

Dear Potter:

In stating the question in the first sentence of your opinion, and also in stating your conclusion at the end of the opinion, you use the term "custodial arrest." Is there a distinction of constitutional significance between a "custodial arrest" and an ordinary arrest? In other words, is it within the power of the State or local community to direct every law enforcement officer to bring every traffic offender into the police station for purposes of booking and setting a hearing date? I am inclined to think that the State has such power and that your opinion therefore extends, at least potentially, to every traffic arrest.

I share your view that we need clearly defined rules for the guidance of police officers and the public, but because I believe an officer's right to open a passenger's briefcase must require something more than a speeding infraction by the driver of the car, I will not be able to join your opinion.

Respectfully,



Justice Stewart

Copies to the Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Mr. Justice Stevens

Circulated: JUN 23 '81

Recirculated: _____

80-0328 - New York v. Belton

JUSTICE STEVENS, concurring in the judgment.

For the reasons stated in my dissenting opinion in Robbins v. California, ante at ____, I agree with JUSTICE BRENNAN, JUSTICE WHITE, JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE REHNQUIST that these two cases should be decided in the same way, and I also agree with The CHIEF JUSTICE, JUSTICE STEWART, JUSTICE BLACKMUN, JUSTICE POWELL, and JUSTICE REHNQUIST that this judgment should be reversed.