



Second Circuit Report

The Second Circuit Limits The Expectation of Privacy In a Rental Car: *United States v. Lyle*

In *United States v. Lyle*¹, the Second Circuit addressed an assortment of criminal procedure issues, including the limits and breadth of reasonable searches under the Fourth Amendment, proffer agreement waivers, the admissibility of a co-defendant's confession purportedly implicating his co-conspirator and the reasonableness of a defendant's sentence. The highlight of the panel's decision centered on the Fourth Amendment question regarding the warrantless search and seizure of a rental car, specifically, whether an unauthorized driver may have a reasonable expectation of privacy in a rental car. The court answered in the affirmative, but only following a convoluted procedural record and remand from the U.S. Supreme Court.

This case involves a colorful cast of characters engaged in a methamphetamine distribution scheme in the New York metropolitan region. James Lyle and Michael Van Praagh regularly transported and distributed significant quantities of methamphetamines out of New York City hotels, as well as their homes. While both individuals did so separately, Van Praagh played a larger role as a distributor and consistently sold the drug to Lyle, who subsequently sold it to his own clients. Both Lyle and Van Praagh had prior drug arrests. Additionally, in May 2013, after a night of dealing pounds of methamphetamines out of his New York hotel room, Van Praagh left behind a pound of the drug along with \$20,000 in cash in the hotel room safe. He returned to the hotel the following day to collect these items and was apprehended by the NYPD. It was Lyle's arrest, however, that triggered the court's intricate Fourth Amendment examination.

Several months after Van Praagh's arrest, NYPD officers observed Lyle park and exit a car in midtown Manhattan. They noticed he had an illegal gravity knife attached to his belt and approached him as he shut the trunk. Following a discussion with Lyle, the officers discovered that Lyle was driving a rental car, that he was not an authorized driver under the rental agreement, and that his driver's license had been suspended. Lyle claimed that his girlfriend rented the car and gave him permission to drive it. The officers arrested him for driving with a suspended license and for possession of an illegal knife. They also impounded the vehicle despite Lyle's plea to call his girlfriend to retrieve it. A police search at the precinct ultimately discovered one pound of methamphetamines and \$39,000 in cash in the trunk of the car.

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Lyle sought to suppress the evidence as the fruit of an unlawful search. The District Court denied Lyle's motion to suppress and the Second Circuit affirmed. Lyle appealed to the U.S. Supreme Court, which remanded the case back to the Third Circuit and asked that the latter evaluate the case pursuant to the Supreme Court's intervening decision in *United States v. Byrd*², a somewhat similar rental car search case. In *Byrd*, the Supreme Court considered whether a driver had a reasonable expectation of privacy in a rental car when he was not listed as an authorized driver on the rental agreement. In that case, Terrence Byrd was given access to a car rented by another individual who, under the rental agreement, was the only driver authorized to operate the vehicle. The rental agreement warned that permitting unauthorized drivers to drive the car would violate the agreement. While driving alone on the highway, Byrd was stopped by Pennsylvania State Troopers for a traffic infraction. The state trooper learned that Byrd was not authorized to drive the car and had prior weapons and drug convictions. Upon conducting a search of the trunk, the troopers discovered body armor and forty-nine bricks of heroin.

Both the District Court for the Middle District of Pennsylvania and Third Circuit Court of Appeals concluded that because Byrd was not listed on the rental agreement, he lacked a reasonable expectation of privacy in the car. The Supreme Court contemplated the distinction between Byrd, who, although granted permission to drive the car by the authorized driver, used the car to commit a crime, and a car thief, to whom the government likened Byrd. The government argued that Byrd's driving the car violated the rental agreement and that this violation *alone per se* meant Byrd could not have had any basis to claim an expectation of privacy in the rental car at the time of the search.

The Supreme Court rejected this argument. Drawing from property principles, the court reasoned that "[o]ne of the main rights attaching to property is the right to exclude others, and, in the main, one who owns or *lawfully possesses or controls* property will in all likelihood have a legitimate expectation of privacy by virtue of the right to exclude."³ It also noted, however, that the concept of lawful possession is central to the expectation of privacy inquiry, as a " 'wrongful' presence at the scene of a search would not enable a defendant to object to the legality of the search."⁴ Therefore, one driving a stolen car at the time of the search could not reasonably object to the lawfulness of the search, regardless of his level of possession and control over the car.



The Court ultimately held that the mere fact that a driver in *lawful* possession and control of a rental car is not listed on the rental agreement will not defeat his otherwise reasonable expectation of privacy. It left for remand two arguments proposed by the government: whether an individual who intentionally uses a third party to procure a rental car by a fraudulent scheme for the purpose of committing a crime is no better situated than a car thief; and whether probable cause justified the search.

In relying on *Byrd*, the Second Circuit concluded that Lyle lacked standing to assert a reasonable expectation of privacy not just because he was an unauthorized driver under the rental agreement, but because he was an unlicensed one. Thus, under *Byrd*, he was not in *lawful* possession of the rental car because his license was suspended and he could not have driven even his own car.

Prior to the Supreme Court's *Byrd* decision, the question of whether an unauthorized driver has a reasonable expectation of privacy in a rental car divided the various circuit courts, resulting in at least three different approaches. *Byrd* resolved the split and proposed a template for evaluating the analysis underlying the Fourth Amendment's roots. Both *Byrd* and *Lyle*, at a minimum, instruct that the touchstone of the Fourth Amendment is reasonableness, which is measured in objective terms by examining the totality of the circumstances.

Endnotes

1 *United States v. Lyle*, 919 F.3d 716 (2d Cir. 2019).

2 *Byrd v. United States*, 138 S. Ct. 1518, 200 L. Ed. 2d 805 (2018).

3 *Id.* at 1527 (quoting *Rakas v. Illinois*, 439 U.S. 128, 144, n.12, 99 S. Ct. 421, 58 L. Ed. 2d 387 (1978) (internal quotation marks omitted) (emphasis added)).

4 *Id.* at 1529 (quoting *Rakas*, 439 U.S. at 141, n. 9 (internal quotation marks omitted)).