

U.S. v. Treisman

U.S. v. Treisman was decided on June 23, 2023 by the Fourth Circuit Court of Appeals N.C.: Defendant appeals his conviction for Possession and Transportation of Child Pornography on Fourth Amendment grounds.

Issues:

Whether the officers had reasonable grounds to enter and search the van under the community caretaking doctrine?

Whether the officers' warrantless impoundment and inventory search were lawful?

Facts:

The defendant possessed child exploitation images on his phone, which he kept in a van. A bank manager summoned police after finding the defendant's van in the bank parking lot left overnight, after hours. Police responded and observed a high-powered rifle with a scope and an extended magazine, a handgun box, an ammunition box, a Tannerite container—a legal target shooting product that can also be used to make explosives—a container of pills and a suitcase. The officers could not see into the rear of the van, which seemed to be modified with an air conditioner on the roof. However, the side door to the rear cargo area was slightly ajar. Officers attempted to learn who the owner of the van was, but the vehicle had California plates and officers could not determine the owner. The VIN number was covered by papers. Officers were concerned that the heat might pose a danger since it was a hot day and the air-conditioning unit on the top of the van was not running, and the guns and ammunition in the front of the van added to their concerns. They both thought that unless something was wrong, the owner and occupants would not likely leave valuable and potentially dangerous items in plain view. Officers pulled the handle on the slightly ajar side door to the back of the van. The door suddenly opened. Startled, the officers drew their guns. They did not see anyone inside the van but noticed more gun cases. But combined with what they had seen in the front seat, the officers felt these additional guns in an abandoned, and unsecure, vehicle presented a public safety concern. Officers did not find anyone inside the van. The bank manager signed a request that the officers tow the vehicle from the property, pursuant to police policy, as the bank's own tow company would not tow vehicles containing firearms. Officers decided to tow the vehicle to secure its contents. Police policy stated that officers may remove abandoned vehicles from private property if the owner requests, in writing, that police remove the property and is not able to remove the property herself. Policy also stated that requests to tow vehicles on private property should be referred to the city zoning administrator. The officers did not call the zoning administrator. From his experience, the officer later testified that he felt that, due to the firearms, the zoning administrator would defer to the police in deciding whether to tow the van. Finally, the policy states that an inventory search should be conducted before a vehicle is lawfully impounded. Before towing, the officers conducted an inventory search of the van's contents as stated by the policy. They began looking for and documenting valuables. During this inventory search, officers also found books about survival, bombmaking, and improvised weapons. An officer looked at each firearm and ran the serial numbers. Additionally, they found several electronic devices, a drone and a large amount of cash banded and sealed in bank bags. After discovering the cash in the bank bags, the officers suspected the owner of criminal activity and decided to obtain a search warrant. Based on what they found inside with the warrant, FBI agents obtained a second search warrant for the defendant's phone and found child exploitation material. The defendant moved to suppress, arguing that the officers did not have reasonable grounds to enter and search the van under the community caretaking doctrine. Second, he

argued that the officers' warrantless impoundment and inventory search were not lawful. The trial court denied the motion.

Holding:

Affirmed. The Court found that the officers searched the van in exercising community caretaking functions and not as a pretext for a criminal investigatory search. The Court explained that warrantless searches of vehicles carried out as part of law enforcement's community caretaking functions do not violate the Fourth Amendment if reasonable under the circumstances. The Court also concluded that the district court did not err in holding the search was reasonable. The Court repeated that officers may inventory a vehicle without a warrant if: (1) the vehicle is in the lawful custody of the police; (2) the inventory search is routine and conducted pursuant to standard police procedures; and (3) the search aims to secure the car or its contents and not to gather incriminating evidence against the owner.

Bottom Line:

In this case, the Court first agreed that it was reasonable for the officers to believe that the presence of guns, ammunition, and explosives in plain view in the front of the van combined with guns in the unsecured rear area of the van created a public safety concern. Likewise, the Court agreed that the officers reasonably believed the firearms, cash and other contents discovered in the van were valuables that needed to be safeguarded. The Court noted that the officers did not remove any items that would normally be seized—such as the firearms, unusual books, or pills—as they normally would have done in a criminal investigatory search. The Court also acknowledged that the officers lawfully ran the firearm serial numbers because the officers needed to ensure that the firearms were returned to the lawful owner. The officers did not deter from their initial public safety concern and their actions reflected that.

Full Case at: <https://www.ca4.uscourts.gov/opinions/214687.P.pdf>