



# Iowa General Assembly

## 2015 Legal Updates

Legislative Services Agency – Legal Services Division

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**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### **WARRANTLESS VEHICLE SEARCHES INCIDENT TO ARREST**

Filed by the Iowa Supreme Court  
June 30, 2015

State of Iowa vs. Jesse Michael Gaskins  
No. 13-1915, 866 N.W.2d 1 (Iowa 2015)

[http://www.iowacourts.gov/About the Courts/Supreme Court/Supreme Court Opinions/Recent Opinions/20150630/13-1915.pdf](http://www.iowacourts.gov/About%20the%20Courts/Supreme%20Court/Supreme%20Court%20Opinions/Recent%20Opinions/20150630/13-1915.pdf)

**Factual Background.** On December 18, 2012, a Davenport police officer performed a traffic stop on a vehicle operated by the defendant, Jesse Gaskins, after observing the vehicle moving on the roadway with expired license plates. Upon approaching the vehicle, the officer smelled marijuana. The defendant initially denied that there was marijuana in the vehicle, but eventually revealed a marijuana blunt to the officer. The officer arrested the defendant and secured him inside the police car. Based on the defendant's previous denial about the marijuana, the officer believed the vehicle might contain more drugs. While searching the vehicle, another officer discovered a portable, locked safe between the driver's seat and rear passenger seats. After finding a key to the safe on the keyring in the vehicle's ignition and opening the safe, the officer discovered a handgun with a defaced serial number, several bags of marijuana, and several pipes. The officer did not have a warrant to search the vehicle or the safe.

**Procedural Background.** The State charged the defendant with possession of marijuana with intent to deliver, knowingly transporting a revolver in a vehicle, and failure to affix a drug tax stamp. The defendant filed a motion to suppress the evidence found inside the safe, asserting that the warrantless search of the safe was not justified under the United States and Iowa constitutions. The defendant argued that no threat to the officer's safety existed and there was no danger that potential evidence could be tampered with or destroyed, because the defendant was secured inside the police car at the time of the search. The State resisted the defendant's motion, asserting the warrantless search was valid because it was reasonable to believe the vehicle contained additional evidence of the offense for which the defendant was arrested: possession of marijuana. The district court denied the defendant's motion to suppress, and subsequently convicted him of all three charges. The defendant appealed.

**Issue.** The Iowa Supreme Court (Court) considered whether the officer's warrantless search of the portable, locked safe inside the vehicle incident to the defendant's arrest violated the defendant's rights under the Fourth Amendment to the United States Constitution and Article I, Section 8 of the Iowa Constitution.

#### **Analysis.**

**Claims Brought Under the U.S. and Iowa Constitutions.** Although the Court recognized that the Fourth Amendment to the United States Constitution and Article I, Section 8 of the Iowa Constitution are nearly identical, the Court reserved the right to apply constitutional principles under the Iowa Constitution differently than the United States Supreme Court applies such principles under the United States Constitution.

**Warrantless Vehicle Searches Incident to Arrest Under the U.S. Constitution.** A warrantless search is presumed unreasonable unless an exception applies. One such exception applies when the search is incident to a lawful arrest. Upon arresting the occupant of a vehicle, an officer may search the passenger compartment of the vehicle, including any containers found within the compartment, at the time of the arrest. Historically, there are two justifications for this exception: it prevents the arrested person from reaching for a weapon that would endanger the officer, and it prevents the arrested person from tampering with or destroying potential evidence.

In 2009, the United States Supreme Court, faced with the possibility that police officers had come to view warrantless vehicle searches incident to arrest as an entitlement rather than an exception, limited the circumstances under which officers could search vehicles incident to arrest. The United States Supreme Court authorized officers to search vehicles incident to arrest only if the arrested person is within reaching distance of the passenger compartment at the time of the search, or where it is reasonable to believe the vehicle contains evidence of the offense for which the person was arrested.

**Warrantless Vehicle Searches Incident to Arrest Under the Iowa Constitution.** The Court has previously recognized the search-incident-to-arrest exception, but has not had an occasion to decide whether the United States Supreme Court's 2009 ruling conforms with the protections afforded under the Iowa Constitution. The Court recognized that the United States Supreme Court's "reaching distance" limitation on searches of vehicles incident to arrest was faithful to the two underlying justifications for the exception: officer safety and evidence protection. However, the Court declined to adopt the United States Supreme Court's additional ruling that a search incident to arrest is valid where it is reasonable to believe the vehicle contains evidence of the offense for which the person was arrested. The Court stated this additional ruling was not supported by the underlying rationales of officer safety and evidence protection, but rather by a broad evidence-gathering rationale that is incompatible with Iowans' robust privacy rights and fundamentally at odds with the warrant requirement.

**Holding.** The Court held that the search of the safe in the defendant's vehicle was invalid under Article I, Section 8 of the Iowa Constitution, because the defendant was secured in the police car at the time of the search, and it was not possible for the defendant to access the vehicle to retrieve a weapon or to tamper with or destroy evidence. The Court noted that this holding does not affect the validity of a search incident to arrest under circumstances that implicate officer safety, involve volatile chemicals, or where the arrested person is within reach of contraband.

**Dissents.** Justice Waterman, joined by Justices Mansfield and Zager, dissented from the majority's opinion. Justice Waterman stated that the search of the safe was valid under the automobile exception to the warrant requirement, which allows an officer to search a vehicle without a warrant where there is probable cause to believe evidence of a crime may be found within the vehicle. He also noted that the majority's ruling presents certain practical problems, such as forcing an officer to choose between inconveniently impounding a vehicle or foregoing a search and potentially leaving evidence undetected. He further suggested that the Court adopt a set of objective criteria for determining when Iowa law should depart from federal law.

Justice Zager, joined by Justices Waterman and Mansfield, also dissented from the majority's opinion. Justice Zager stated that there are not sufficient reasons for the Court to depart from the United States Supreme Court's 2009 ruling, as it placed reasonable limitations on police authority, and struck the proper balance between individual privacy rights and the State's interests.

**Concurrences.** Chief Justice Cady, joined by Justice Wiggins, concurred with the majority's opinion, and wrote separately to respond to the dissent's argument that the search of the safe was valid under the automobile exception to the warrant requirement. Justice Cady stated that the need for the automatic nature of the exigency justification for the automobile exception may no longer need to exist due to technological advances in Iowa's warrant process.

Justice Appel, joined by Justices Cady and Wiggins, also concurred with the majority's opinion, and wrote separately to respond to issues raised in the dissenting opinions. Justice Appel questioned the use of practical considerations, such as the inconvenience resulting from obtaining a warrant, as a justification to defeat the assertion of constitutional rights. He further noted that the Court should use ordinary tools of constitutional interpretation to determine its approach to constitutional issues, and should not use an "artificial checklist" or a set of neutral criteria that inhibits the Court's ability to interpret the Iowa Constitution. Finally, he questioned the continuing validity of the automobile exception in the face of criticism of its two underlying rationales: that vehicles are inherently mobile and that the owner or occupant of a vehicle has a reduced expectation of privacy.

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