Congressional Research Service
Informing the legislative debate since 1914

Legal Sidebar

Supreme Court Drives Home Its Concern for Privacy in *Collins v. Virginia*

Jillian C. Hanna
Legal Intern

June 26, 2018

Facing a clash between two well-established Fourth Amendment doctrines—the primacy of the home in Fourth Amendment case law versus the "automobile exception" to the Amendment's warrant requirement—the Supreme Court in *Collins v. Virginia* ultimately came down on the side of protecting privacy within the home and its adjoining property. In so doing, the Court clarified the scope of the automobile exception, holding that the exception does not provide an independent basis for police to enter an individual's home or its curtilage without a warrant to search a vehicle on the property. This Sidebar discusses the *Collins* decision and its potential implications for Fourth Amendment law.

As background, the Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures" and provides that "no Warrants shall issue but upon probable cause." Supreme Court precedent establishes that a warrantless search of a suspect's home is "presumptively unreasonable." Nonetheless, the Court has identified a series of exceptions to the Fourth Amendment's warrant requirement. One such rule is the automobile exception, recognized by the Court in *Carroll v. United States* in 1925. As framed in the *Carroll* opinion, the automobile exception provides that an officer does not need a warrant to stop and search a car provided that the officer has probable cause to do so. An officer has probable cause where "the facts and circumstances within [his] knowledge and of which [he has] reasonably trustworthy information [are] sufficient, in themselves, to warrant a man of reasonable caution in the belief that" illegal behavior has taken or is taking place. The *Carroll* Court reasoned that a warrantless search of a vehicle was justified given that a "vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought." In further support of the exception, the Court, in later cases, has explained that, due to the pervasive governmental regulation of automobiles and the "obviously public nature of automobile travel," people are not entitled to the same expectation of privacy in a car as they enjoy in their homes. Given this additional reduced privacy rationale, the automobile exception extends "even [to] cases where an automobile [is] not immediately mobile."

Congressional Research Service
7-5700
www.crs.gov
LSB10156

Nonetheless, the Supreme Court, in a separate strand of case law, has also recognized that the Fourth Amendment protects "the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion." Because "a man's house is his castle," police generally need a warrant to enter an individual's home. Moreover, the Court has recognized that Fourth Amendment protections extend into the curtilage of a home, defined as "the area around the home to which the activity of home life extends." Examples of curtilage include the front porch and backyard. Because the curtilage surrounding a home receives the same constitutional protection as the home itself, "unlicensed physical intrusion" into this area is "presumptively unreasonable" under the Fourth Amendment. The Court has found an "unlicensed physical intrusion" where an officer enters the curtilage "in order to do nothing but conduct a search."

In *Collins v. Virginia*, the Court had to reconcile these two distinct strands of Fourth Amendment case law. Specifically, the central issue in *Collins* was whether the automobile exception justifies an officer's warrantless search of a vehicle on the curtilage of a suspect's home. Two officers had independently observed the same driver of an orange and black motorcycle with an extended frame commit traffic violations and evade police stops. After determining that the motorcycle was likely stolen, the officers found photographs on Ryan Collins' Facebook profile of a motorcycle with the same colors parked at the top of a residential driveway. An officer who went to the home observed "what appeared to be a motorcycle with an extended frame" under a tarp parked on the driveway in a spot enclosed on two sides by a wall "about the height of a car" and by the house on a third side. The officer walked up the driveway and inside of the partial enclosure to remove the tarp. After running the license plate and vehicle identification numbers and confirming that the motorcycle had been stolen, the officer waited to confront Collins. Upon his return home, Collins admitted that he had purchased the motorcycle without a title and was subsequently arrested and convicted of receiving stolen property. He appealed on the grounds that the officer violated his Fourth Amendment rights by entering the property and removing the tarp in order to examine the motorcycle without a warrant. The Supreme Court of Virginia held that the officer's warrantless entry and search of the motorcycle in this case was justified under the automobile exception.

On appeal to the U.S. Supreme Court, Justice Sotomayor, on behalf of seven of her colleagues, reversed the lower court. The Court's opinion focused on the intersection between the Fourth Amendment's protection of curtilage and the automobile exception. The Court first determined that the part of the driveway on which the search occurred constituted curtilage because it was an area "adjacent to the home" and "to which the activity of home life extends." Next, Justice Sotomayor reasoned that "the scope of the automobile exception extends no further than the automobile itself" and "does not afford the necessary lawful right of access to search a vehicle parked within a home or its curtilage because it does not justify an intrusion on a person's separate and substantial Fourth Amendment interest in his home and curtilage." In this sense, the automobile exception, like other exceptions to the warrant requirement, are contingent on the government having lawful access to the item being searched in the first place. Because the police officers searching Collins's motorcycle did not have lawful access to the curtilage of the home, the automobile exception could not apply. In so concluding, the Court emphasized that the rationales underlying the automobile exception "are specific to the nature of a vehicle" and "do not account for the distinct privacy interest in one's home or curtilage."

In addition to rejecting the categorical application of the automobile exception any time a search involves a vehicle, the Court rejected Virginia's alternative proposed rule that "the automobile exception does not permit warrantless entry into 'the physical threshold of a house or a similar fixed, enclosed structure inside the curtilage like a garage." Justice Sotomayor voiced concerns that such a rule would "create confusion" about which types of curtilage received Fourth Amendment protection and would provide an advantage to individuals who could afford garages. Ultimately, the Court held that the automobile exception does not permit an officer to enter an individual's home or curtilage without a warrant for the purpose of searching a vehicle on the property. The Court nonetheless remanded the case to the Virginia Supreme Court to decide whether another exception to the warrant requirement might apply.

As the sole dissenter, Justice Alito, noting that the touchstone of the Fourth Amendment is "reasonableness," argued that the officer's actions in this case were "entirely reasonable." For Justice Alito, the "ready mobility" and reduced privacy rationales for the automobile exception are no "less valid" "when the vehicle is parked in plain view in a driveway just a few feet from the street" as compared to when the vehicle is parked on a public street. Justice Alito did not argue that an officer with probable cause ought to be permitted to search a vehicle without a warrant in every case. Rather, he proposed that "a case-specific inquiry regarding *the degree of intrusion on privacy* is entirely appropriate when the motor vehicle to be searched is located on private property."

The *Collins* decision established a clear limitation to the automobile exception in favor of Fourth Amendment privacy protections extending to an individual's home and curtilage. The decision aligns with the Supreme Court's refusal to expand the scope of other exceptions to the Fourth Amendment's warrant requirement. For instance, though the "plain view" doctrine permits an officer acting without a warrant to seize objects that are easily observable from a location where he has a lawful right to be, the Court has held that the officer must still have "a lawful right of access to the object itself" as well as probable cause to believe that the object is contraband or evidence before he can seize that object. Similarly, in *Riley v. California*, the Court held that the exception permitting a warrantless search incident to a lawful arrest does not allow police to search data stored on a cell phone seized during an arrest without a warrant. As a result, the *Collins* decision underscores that the exceptions to the Fourth Amendment's warrant requirement remain exceptions and not the rule. Given recent congressional interest in police practices and Congress's oversight of federal criminal law, the *Collins* decision is significant because it provides an additional limitation on police investigations and reflects the Court's concern for protecting the privacy of the home during the course of an investigation.