

Police received information from an undercover police officer that she had just seen two men (whom she described) in a red pickup truck selling marijuana to schoolchildren near the city's largest high school. A few minutes later, two police officers saw a pickup truck fitting the description a half block from the high school. The driver of the truck matched the description of one of the men described by the undercover officer. The only passenger was a young woman.

The police stopped the truck and searched the driver. In the pocket of the driver's jacket, the police found a small bottle of pills that they recognized as narcotics. They then broke open a locked toolbox attached to the flatbed of the truck and found a small sealed envelope inside. They opened it and found marijuana. They also found a quantity of cocaine in the glove compartment.

After completing their search of the driver and the truck, the driver was arrested and charged with unlawful possession of narcotics.

If the driver moves to suppress the use as evidence of the marijuana and cocaine found in the search of the truck, how should the court rule on his motion?

- A. Deny the motion as to both the marijuana and the cocaine.
- B. Deny the motion as to the marijuana but grant it as to the cocaine.
- C. Grant the motion as to both the marijuana and the cocaine.
- D. Grant the motion as to the marijuana but deny it as to the cocaine.

Explanation:

Exceptions to warrant requirement

Exceptions	Elements
Search incident to arrest	Search of body & immediate surrounding area directly before or after lawful arrest
Administrative search of highly regulated industry	Regulatory scheme has substantial government interest Warrantless search necessary to further interest Scheme provides constitutionally adequate substitute for warrant
Stop and frisk (Terry stop)	Reasonable suspicion person is (or was) involved in crime Search limited to: brief questioning to confirm or dispel suspicion frisk if reasonably believe person is armed
Plain view doctrine	Immediately recognizable contraband in plain view of officer lawfully in area
Automobile	Probable cause that vehicle contains evidence of crime Search limited to areas where evidence might be located
Consent	Given voluntarily by person with actual or apparent authority Search limited to scope of consent
Exigent circumstance	Evanescent evidence – destruction of evidence Emergency situation – threat of physical harm to police and/or public Hot pursuit – pursuit of fleeing felony suspect
Special government purpose	Inventory search – items searched under established routine Special needs (eg, search of students, government employees) Parolee – warrantless search as condition of parole Border search – national security allows search

Mnemonic: **SAD SPACES**

A court should suppress evidence obtained during an unreasonable Fourth Amendment search. An unreasonable search occurs when the government acts without a warrant based on probable cause and no exception to the warrant requirement applies. The **automobile exception** justifies a warrantless police search of a person's vehicle when:

police have **probable cause** to believe that the **vehicle contains evidence of a crime** *and* the search is limited to **areas where the evidence might be located**.

During an automobile search, police can **search any containers** inside the vehicle—including locked containers—that might contain the illegal evidence. They can also seize any other illegal items discovered during this search.

Here, the police had probable cause to stop and search a truck and driver that matched the description given by the undercover officer. This allowed the police to then conduct a warrantless search of areas in the truck where the marijuana might be located—including the locked toolbox and the glove compartment. Since the police discovered marijuana and cocaine during that lawful search, they did not need a warrant to seize the illegal items. Therefore, the driver's motion to suppress should be denied **(Choices B, C & D)**.

Educational objective:

The automobile exception to the warrant requirement allows police to conduct a warrantless search of a vehicle if they have probable cause to believe it contains evidence of a crime. Officers can search any area within the vehicle where the evidence might be located, including locked containers.

References

U.S. Const. amend. IV (prohibition against unreasonable searches and seizures).

Carroll v. United States, 267 U.S. 132, 153 (1925) (establishing the automobile exception to the warrant requirement).

United States v. Ross, 456 U.S. 798, 825 (1982) (holding that during an automobile search, police can also search containers that may contain evidence of the crime).

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