SUPREME COURT OF THE UNITED STATES

No. 03–5165

MARCUS THORNTON, PETITIONER *v.*
UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[May 24, 2004]

JUSTICE STEVENS, with whom JUSTICE SOUTER joins, dissenting.

Prior to our decision in *New York* v. *Belton,* 453 U. S. 454 (1981), there was a widespread conflict among both federal and state courts over the question "whether, in the course of a search incident to the lawful custodial arrest of the occupants of an automobile, police may search inside the automobile after the arrestees are no longer in it." *Id.,* at 459. In answering that question, the Court expanded the authority of the police in two important respects. It allowed the police to conduct a broader search than our decision in *Chimel* v. *California*, 395 U. S. 752, 762–763 (1969), would have permitted,[1] and it authorized them to

[1] The Court gleaned from the case law "the generalization that articles inside the relatively narrow compass of the passenger compartment of an automobile are in fact generally, even if not inevitably, within 'the area into which an arrestee might reach in order to grab a weapon or evidentiary ite[m].'" *Belton*, 453 U. S., at 460 (quoting *Chimel*, 395 U. S., at 763). "In order to establish the workable rule this category of cases require[d]," the Court then read "*Chimel*'s definition of the limits of the area that may be searched in light of that generalization." Thus, *Belton* held "that when a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile." 453 U. S., at 460 (footnote omitted).

open closed containers that might be found in the vehicle's passenger compartment.[2]

Belton's basic rationale for both expansions rested not on a concern for officer safety, but rather on an overriding desire to hew "to a straightforward rule, easily applied, and predictably enforced." 453 U. S., at 459.[3] When the case was decided, I was persuaded that the important interest in clarity and certainty adequately justified the modest extension of the *Chimel* rule to permit an officer to examine the interior of a car pursuant to an arrest for a traffic violation. But I took a different view with respect to the search of containers within the car absent probable cause, because I thought "it palpably unreasonable to require the driver of a car to open his briefcase or his luggage for inspection by the officer." *Robbins* v. *California,* 453 U. S. 420, 451–452 (1981) (dissenting opinion).[4] I

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[2] Because police lawfully may search the passenger compartment of the automobile, the Court reasoned, it followed "that the police may also examine the contents of any containers found within the passenger compartment, for if the passenger compartment is within reach of the arrestee, so also will containers in it be within his reach. . . . Such a container may, of course, be searched whether it is open or closed, since the justification for the search is not that the arrestee has no privacy interest in the container, but that the lawful custodial arrest justifies the infringement of any privacy interest the arrestee may have." *Id.,* at 460–461 (footnote omitted).

[3] The Court extolled the virtues of "'[a] single, familiar standard . . . to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront.'" *Id*., at 458 (quoting *Dunaway* v. *New York,* 442 U. S. 200, 213–214 (1979)).

[4] In *Robbins*, a companion case to *Belton*, the Court held that police officers cannot open closed, opaque containers found in the trunk of a car during a lawful but warrantless search. 453 U. S., at 428 (plurality opinion). Because the officer in *Robbins* had probable cause to believe the car contained marijuana, I would have applied the automobile exception to sustain the search. *Id*., at 452 (dissenting opinion). But I expressed concern that authorizing police officers to search containers in the passen-

remain convinced that this aspect of the *Belton* opinion was both unnecessary and erroneous. Whether one agrees or disagrees with that view, however, the interest in certainty that supports *Belton*'s bright-line rule surely does not justify an expansion of the rule that only blurs those clear lines. Neither the rule in *Chimel* nor *Belton*'s modification of that rule would have allowed the search of petitioner's car.

A fair reading of the *Belton* opinion itself, and of the conflicting cases that gave rise to our grant of certiorari, makes clear that we were not concerned with the situation presented in this case. The Court in *Belton* noted that the lower courts had discovered *Chimel*'s reaching-distance principle difficult to apply in the context of automobile searches incident to arrest, and that "no straightforward rule ha[d] emerged from the litigated cases." 453 U. S., at 458–459. None of the cases cited by the Court to demonstrate the disarray in the lower courts involved a pedestrian who was in the vicinity, but outside the reaching distance, of his or her car.[5] Nor did any of the decisions

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ger compartment without probable cause would "provide the constitutional predicate for broader vehicle searches than any neutral magistrate could authorize by issuing a warrant." *Ibid.*

[5] See *United States* v. *Benson*, 631 F. 2d 1336, 1337 (CA8 1980) (defendant arrested "while sitting in a car"); *United States* v. *Sanders*, 631 F. 2d 1309, 1311-1312 (CA8 1980) (occupants in car at time officers approached); *United States* v. *Rigales*, 630 F. 2d 364, 365 (CA5 1980) (defendant apprehended during traffic stop); *United States* v. *Dixon*, 558 F. 2d 919, 922 (CA9 1977) ("[T]he agents placed appellant under arrest while he was still in his car"); *United States* v. *Frick*, 490 F. 2d 666, 668, 669 (CA5 1973) (defendant arrested "at his car in the parking lot adjacent to his apartment building"; at time of arrest, attaché case in question was lying on back seat of car "approximately two feet from the defendant" and "readily accessible" to him); *Hinkel* v. *Anchorage*, 618 P. 2d 1069 (Alaska 1980) (defendant arrested while in car immediately following collision); *Ulesky* v. *State*, 379 So. 2d 121, 123 (Fla. App. 1979) (defendant arrested while in car during traffic stop).

cited in the petition for a writ of certiorari[6] present such a case.[7] Thus, *Belton* was demonstrably concerned only with the narrow but common circumstance of a search occasioned by the arrest of a suspect who was seated in or driving an automobile at the time the law enforcement official approached. Normally, after such an arrest has occurred, the officer's safety is no longer in jeopardy, but he must decide what, if any, search for incriminating evidence he should conduct. *Belton* provided previously unavailable and therefore necessary guidance for that category of cases.

The bright-line rule crafted in *Belton* is not needed for cases in which the arrestee is first accosted when he is a pedestrian, because *Chimel* itself provides all the guidance that is necessary. The only genuine justification for extending *Belton* to cover such circumstances is the interest in uncovering potentially valuable evidence. In my opinion, that goal must give way to the citizen's constitutionally protected interest in privacy when there is already in place a well-defined rule limiting the permissible scope of a search of an arrested pedestrian. The *Chimel* rule should provide the same protection to a "recent occupant" of a vehicle as to a recent occupant of a house.

Unwilling to confine the *Belton* rule to the narrow class of cases it was designed to address, the Court extends *Belton*'s reach without supplying any guidance for the future application of its swollen rule. We are told that

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[6] Pet. for Cert. in *New York* v. *Belton*, O. T. 1980, No. 80–328, p. 7.

[7] See *United States* v. *Agostino*, 608 F. 2d 1035, 1036 (CA5 1979) (suspect in car when notified of police presence); *United States* v. *Neumann*, 585 F. 2d 355, 356 (CA8 1978) (defendant stopped by police while in car); *United States* v. *Foster*, 584 F. 2d 997, 999–1000 (CADC 1978) (suspects seated in parked car when approached by officer); *State* v. *Hunter*, 299 N. C. 29, 33, 261 S. E. 2d 189, 192 (1980) (defendant pulled over and arrested while in car); *State* v. *Wilkens*, 364 So. 2d 934, 936 (La. 1978) (defendant arrested in automobile).

officers may search a vehicle incident to arrest "[s]o long as [the] arrestee is the sort of 'recent occupant' of a vehicle such as petitioner was here." *Ante*, at 8. But we are not told how recent is recent, or how close is close, perhaps because in this case "the record is not clear." 325 F. 3d 189, 196 (CA4 2003). As the Court cautioned in *Belton* itself, "[w]hen a person cannot know how a court will apply a settled principle to a recurring factual situation, that person cannot know the scope of his constitutional protection, nor can a policeman know the scope of his authority." 453 U. S., at 459–460. Without some limiting principle, I fear that today's decision will contribute to "a massive broadening of the automobile exception," *Robbins*, 453 U. S., at 452 (STEVENS, J., dissenting), when officers have probable cause to arrest an individual but not to search his car.

Accordingly, I respectfully dissent.