

# Arizona v. Gant

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*Arizona v. Gant*, 556 U.S. 332 (2009), was a United States Supreme Court decision holding that the Fourth Amendment to the United States Constitution requires law enforcement officers to demonstrate an actual and continuing threat to their safety posed by an arrestee, or a need to preserve evidence related to the crime of arrest from tampering by the arrestee, in order to justify a warrantless vehicular search incident to arrest conducted after the vehicle's recent occupants have been arrested and secured.

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## Facts

The case involved Rodney J. Gant, who was arrested by Tucson, Arizona, police and charged with driving on a suspended driver's license. Police arrested Gant in a friend's yard after he had parked his vehicle and was walking away. Gant and all other suspects on the scene were then secured in police patrol cars. The officers then searched Gant's vehicle. After finding a weapon and a bag of cocaine, they also charged him with possession of a narcotic for sale and possession of drug paraphernalia.

## Blurring the *Belton* bright line

Thomas Frank Jacobs (Tucson, Arizona), lead counsel for Rodney Gant, argued the case before the U.S. Supreme Court on October 7, 2008. Jacobs argued that

## Arizona v. Gant



### Supreme Court of the United States

**Argued October 7, 2008**

**Decided April 21, 2009**

**Full case name** *State of Arizona, Petitioner v. Rodney Joseph Gant*

**Docket nos.** 07-542  
(<http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/07-542.htm>)

**Citations** 556 U.S. 332 (*more*)  
129 S.Ct. 1710, 173 L.Ed.2d 485, 77 USLW 4285, 09 Cal. Daily Op. Serv. 4732, 2009 Daily Journal D.A.R. 5611, 21 Fla. L. Weekly Fed. S 781

### Holding

1) *Belton* does not authorize a vehicle search incident to a recent occupant's arrest after the arrestee has been secured and cannot access the interior of the vehicle.

2) Circumstances unique to the automobile context justify a search incident to arrest when it is reasonable to believe that evidence of the offense of arrest might be found in the vehicle.

### Court membership

#### Chief Justice

John G. Roberts

#### Associate Justices

John P. Stevens · Antonin Scalia  
Anthony Kennedy · David Souter  
Clarence Thomas · Ruth Bader Ginsburg  
Stephen Breyer · Samuel Alito

### Case opinions

**Majority** Stevens, joined by Scalia, Souter, Thomas, Ginsburg

an unreasonable expansion of a limited authority to search vehicles incident to arrest provided by the Supreme Court's 1981 decision in *New York v. Belton* was occurring. Lower courts were allowing searches after the initial justifications for setting aside the Fourth Amendment's warrant requirement had ceased to exist, relying on a so-called bright-line rule of "if arrest, then search." Jacobs argued, and the Court ultimately agreed, that such application of the *Belton* exception caused the exception to "swallow the rule." allowing unconstitutional searches.

<b>Concurrence</b>	Scalia
<b>Dissent</b>	Alito, joined by Roberts, Kennedy, Breyer (in part)
<b>Dissent</b>	Breyer
	<b>Laws applied</b>
	U.S. Const. amend. IV

## Scholarly interest

A group of legal scholars, including University of Iowa law professor James Tomkovicz, wrote an *amicus curiae* brief asking the court to overturn the 1981 case, *New York v. Belton*, that granted police the authority to search a person's vehicle even if that person is not in the vehicle. According to Tomkovicz, *Belton* fails to meet the constitutional standard of probable cause.<sup>[1]</sup>

## Supreme Court decision

In an **opinion** delivered by Justice Stevens, the Supreme Court held that police may search the passenger compartment of a vehicle, incident to a recent occupant's arrest (and therefore without a warrant) only if it is reasonable to believe that the arrestee might access the vehicle at the time of the search, or that the vehicle contains evidence of the offense of arrest.

Justice Scalia wrote a concurring opinion, stating that "we should simply abandon the *Belton-Thornton* charade of officer safety and overrule those cases. I would hold that a vehicle search incident to arrest is *ipso facto* 'reasonable' only when the object of the search is evidence of the crime for which the arrest was made, or of another crime that the officer has probable cause to believe occurred."

Justice Alito wrote a dissent joined by Chief Justice Roberts, Justice Kennedy, and Justice Breyer in part, saying that the court could not overrule *New York v. Belton* and *Thornton v. United States*, 541 U. S. 615 (2004).

Justice Breyer wrote a separate dissent.

## See also

- List of United States Supreme Court cases
- List of United States Supreme Court cases, volume 556
- *Chimel v. California* (1969)
- *New York v. Belton* (1981)
- *Thornton v. United States* (2004)

## References

- <sup>^</sup> "Law professor Tomkovicz writes brief for case in upcoming Supreme Court term" (<http://www.press-citizen.com/apps/pbcs.dll/article?AID=/20080929/NEWS01/80929005/1079>). *The Press-Citizen*. 2008-09-29.

## Further reading

- Emmons, C. (2004). "Arizona v. Gant: An Argument for Tossing *Belton* and All Its Bastard Kin". *Arizona State Law Journal* **36**: 1067. ISSN 0164-4297 ([//www.worldcat.org/issn/0164-4297](http://www.worldcat.org/issn/0164-4297)).
- Rudstein, David S. (2005). "*Belton* Redux: Re-evaluating *Belton's* Per Se Rule Governing the Search of an Automobile Incident to an Arrest". *Wake Forest Law Review* **40**: 1287. ISSN 0043-003X ([//www.worldcat.org/issn/0043-003X](http://www.worldcat.org/issn/0043-003X)).
- Stiles, Devon M. (2010). "Faded Lines: Another Attempt to Delineate Reasonableness in Automobile Searches Incident to Arrest" ([http://www.uwyo.edu/law/\\_files/docs/WY%20Law%20Review/Archive/Law\\_Review\\_v10\\_n1.pdf](http://www.uwyo.edu/law/_files/docs/WY%20Law%20Review/Archive/Law_Review_v10_n1.pdf)). *Wyoming Law Review* **10** (1): 319. Retrieved 2010-10-27. "Adopting the automobile exception as the alternative to *Gant* simultaneously protects privacy interests while enabling law enforcement total access to vehicles, without the need for further litigation"
- Wells, Holly (2007). "*State v. Gant*: Departing from the Bright-Line *Belton* Rule in Automobile Searches Incident to Arrest". *Arizona Law Review* **49**: 1033–1041. ISSN 0004-153X ([//www.worldcat.org/issn/0004-153X](http://www.worldcat.org/issn/0004-153X)).
- Berland, David (2011). Note, "Stopping the Pendulum: Why *Stare Decisis* Should Constrain the Court from Further Modification of the Search Incident to Arrest Exception" (<http://illinoislawreview.org/wp-content/ilr-content/articles/2011/2/Berland.pdf>). *University of Illinois Law Review* 2011: 695.

## External links

- Full Supreme Court opinion (<http://www.supremecourt.gov/opinions/08pdf/07-542.pdf>)
- Arizona v. Gant at ScotusWiki ([http://www.scotuswiki.com/index.php?title=Arizona\\_v.\\_Gant](http://www.scotuswiki.com/index.php?title=Arizona_v._Gant))

Retrieved from "http://en.wikipedia.org/w/index.php?title=Arizona\_v.\_Gant&oldid=585284542"

Categories: United States Supreme Court cases | United States Fourth Amendment case law | 2009 in United States case law | 2009 in Arizona | Legal history of Arizona

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