SEARCH AND SEIZURE – AUTO STOPS – Automobile exception: Motor homes – Revised 11/2009

If a car is “readily mobile” and probable cause exists to believe it contains contraband, the Fourth Amendment permits warrantless searches of the vehicle. *Pennsylvania v. Labron*, 518 U.S. 938, 940 (1996). This automobile exception has been extended to motor homes despite their capability to be used as a residence. *California v. Carney*, 471 U.S. 386 (1985). In *Carney*, a DEA agent received a tip that defendant's mobile motor home was being used to exchange marijuana for sex. Agents confirmed the tip by monitoring the motor home, which was parked in a lot in downtown San Diego. A youth who had been observed entering and remaining in the motor home for over an hour reported to the agents that he had just received marijuana in return for allowing the defendant sexual contacts. At the agents' request, the youth returned to the motor home and knocked on the door; the defendant stepped out. Without a warrant or consent, one agent then entered the motor home and observed marijuana. Carney was charged with possession of marijuana for sale.

The Court held that the warrantless search of respondent's motor home did not violate the Fourth Amendment, because mobile motor homes, like other vehicles, satisfy the dual justifications for the auto exception:

> When a vehicle is being used on the highways, or if it is readily capable of such use and is found stationary in a place not regularly used for residential purposes --temporary or otherwise --the two justifications for the vehicle exception come into play. First, the vehicle is obviously readily mobile by the turn of an ignition key, if not actually moving. Second, there is a reduced expectation of privacy stemming from its use as a licensed motor vehicle subject to a range of police regulation inapplicable to a fixed dwelling.

Id. at 392-393.

The Court further explained that despite its residential capability, the mobile motor home maintains a reduced expectation of privacy which "derive[s] not from the fact that the area to be searched is in plain view, but from the pervasive regulation of vehicles capable of traveling on the public highways." *Id.* at 392. Finding Carney's mobile motor home to fall within the "automobile exception," the Court explained:

> While it is true that respondent's vehicle possessed some, if not many of the attributes of a home, it is equally clear that the vehicle falls clearly within the scope of the [automobile] exception . . . . Like the automobile in [a prior case], respondent's motor home was readily mobile. Absent the prompt search and seizure, it could readily have been moved beyond the reach of the police. Furthermore, the vehicle was licensed to "operate on public streets; [was] serviced in public places; . . . and [was] subject to extensive regulation and inspection."

Id. at 393 [*quoting Rakas v. Illinois*, 439 U.S. 128, 154 n. 2 (1978) (Powell, J., concurring)].