[Cite as *State v. Thomas*, 2009-Ohio-3461.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 91891

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

GARY THOMAS

DEFENDANT-APPELLANT

JUDGMENT:
REVERSED, CONVICTION VACATED, AND CAUSE REMANDED

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-507478

BEFORE: Kilbane, J., Gallagher, P.J., and Rocco, J.

RELEASED: July 16, 2009

JOURNALIZED:

ATTORNEYS FOR APPELLANT

Robert Tobik
Chief Public Defender
Robert M. Ingersoll
Assistant Public Defender
310 Lakeside Avenue - Suite 200
Cleveland, Ohio 44113

ATTORNEYS FOR APPELLEE

William D. Mason
Cuyahoga County Prosecutor
Gregory Mussman
Assistant Prosecuting Attorney
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

MARY EILEEN KILBANE, J.:

{¶ 1} Appellant, Gary Thomas, appeals from the decision of the Cuyahoga County Court of Common Pleas that denied his motion to suppress. The trial court denied appellant's motion to suppress as the search occurred incident to arrest. The longstanding precedent governing vehicle searches incident to arrest has been significantly narrowed. The United States Supreme Court most recently decided *Arizona v. Gant* (2009), 556 U.S. ___, 129 S.Ct. 1710, which renders the search of appellant's vehicle unlawful, and therefore, we reverse the judgment of the trial court, vacate appellant's conviction, and remand for proceedings consistent with this opinion.

{¶ 2} The following facts give rise to this appeal.

{¶ 3} Cleveland Police Officers Jeffrey Yasenchak and Antonio Taylor testified to the following events. On February 9, 2008, at approximately 2:00 p.m., the officers were patrolling the area of East 37th Street and Croton Avenue. The officers noticed a rented Chevrolet HHR make a right turn onto Croton without using a turn signal. When the officers turned onto Croton, the vehicle was already parked alongside the curb and the occupants had exited the vehicle. The officers approached appellant, the driver, and asked him to produce his driver's license.

{¶ 4} Appellant informed the officers he did not have a valid license, at which point they arrested him for driving without a license, handcuffed him, and placed him in the back of the patrol car. A records check later indicated

appellant's license had been suspended, and the charge was amended to driving under suspension. The officers also detained the passenger. They then proceeded to search the vehicle and found two bags of crack cocaine in the glove box.

{¶ 5} On February 22, 2008, the Cuyahoga County Grand Jury indicted appellant on three counts. Count One was drug trafficking, to wit: crack cocaine, under R.C. 2925.03(A)(2), a felony of the third degree. Count Two was possession of drugs, to wit: crack cocaine, under R.C. 2925.11(A), a felony of the fourth degree. Count Three was possession of criminal tools, to wit: a cell phone and $548 in cash, under R.C. 2923.24(A), a felony of the fifth degree.

{¶ 6} On May 14, 2008, appellant filed a motion to suppress. On May 19, 2008, the trial court held a hearing. On May 20, 2008, the trial court issued a journal entry denying appellant's motion. On May 28, 2008, appellant returned to court and entered a plea of no contest. The court found appellant guilty on all counts. On July 7, 2008, the court sentenced appellant to one year on both Count One and Count Two, and ten months on Count Three, all counts to run concurrently. Appellant filed a notice of appeal on August 4, 2008.

{¶ 7} Appellant asserts two assignments of error.

{¶ 8} ASSIGNMENT OF ERROR NUMBER ONE:

> **"GARY THOMAS WAS DENIED HIS CONSTITUTIONAL RIGHT TO BE FREE OF UNREASONABLE SEARCHES AND SEIZURES, WHEN THE TRIAL COURT DENIED HIS MOTION TO SUPPRESS THE EVIDENCE SEIZED FROM THE AUTOMOBILE."**

{¶ 9} Appellant argues the trial court erred when it denied his motion to suppress. He contends that the crack cocaine was inadmissible because, once he was arrested, none of the exceptions to a warrantless search were applicable; therefore, the search was unreasonable and violated the Fourth Amendment.

{¶ 10} A trial court serves as a finder of fact when holding a hearing on a motion to suppress. *State v. Mills* (1992), 62 Ohio St.3d 357, 366, 582 N.E.2d 972. The trial court hears the testimony of the witnesses, therefore, it is in the best position to resolve factual issues. Id.

{¶ 11} "Appellate review of a trial court's ruling on a motion to suppress presents mixed questions of law and fact." *State v. McNamara* (1997), 124 Ohio App.3d 706, 710, 707 N.E.2d 589. However, an appellate court must accept the factual findings of the trial court as long as they are supported by competent, credible evidence. *State v. Harris* (1994), 98 Ohio App.3d 543, 546, 649 N.E.2d 7. An appellate court may only disregard the trial court's factual findings if they are clearly erroneous. *State v. Long* (1998), 127 Ohio App.3d 328, 332, 713 N.E.2d 1. However, the application of the law to those facts is subject to de novo review. *State v. Polk*, Cuyahoga App. No. 84361, 2005-Ohio-774, at ¶2.

{¶ 12} The Fourth Amendment of the United States Constitution specifically protects all citizens from unreasonable searches and seizures. All evidence seized in violation of the Fourth Amendment must be excluded. *Mapp v. Ohio* (1961), 367 U.S. 643, 654, 81 S.Ct.1684. The government can obtain a search warrant if probable cause exists. *Katz v. United States* (1967), 389 U.S. 347, 357, 88 S.Ct.

507; *State v. Brown* (1992), 63 Ohio St.3d 349, 350, 588 N.E.2d 113. A defendant bears the initial burden to demonstrate a search was conducted without a warrant. *State v. Dubose*, 164 Ohio App.3d 698, 704, 2005-Ohio-6002; *Coolidge v. New Hampshire* (1971), 403 U.S. 443, 443-455; *Katz* at 357. Once the defendant can demonstrate the search was warrantless, the burden shifts to the government to demonstrate that the search fell within an exception to the warrant requirement. *Xenia v. Wallace* (1988), 37 Ohio St.3d 216, 218, 524 N.E.2d 889.

{¶ 13} In this case, there is no dispute that the search was conducted without a warrant. Officers observed appellant fail to use his turn signal, and he was arrested only moments later. The search occurred while the appellant was still on the scene, locked in the back seat of a patrol car. As appellant has met his initial burden, the burden then shifts to the government to demonstrate that the search did not require a warrant.

{¶ 14} The *Gant* decision involved nearly identical facts. In *Gant*, police officers responded to a tip involving possible drug activity at a residence. Officers went to the front door and met Gant, who stated the owner of the home would be back later in the day. Officers then conducted a records check on Gant, which revealed he had an outstanding arrest warrant for driving with a suspended license. Id. at 491-492.

{¶ 15} Upon returning later that day, officers arrested two occupants of the home. As the occupants were being arrested, Gant drove up and parked in the driveway. Officers saw Gant and arrested him for driving with a suspended

license. The officers called for backup and placed Gant in handcuffs and locked him in the back seat of a patrol car. Police then searched Gant's vehicle and found a gun and a bag of crack cocaine in a jacket pocket. Id. at 492.

{¶ 16} Gant filed a motion to suppress with the trial court. The trial court denied the motion, concluding that because police saw Gant driving under a suspended license and searched the vehicle immediately after the arrest, the search was incident to an arrest and did not require a warrant. Id.

{¶ 17} In a surprising departure from long-established precedent, the United States Supreme Court agreed with Gant and held the motion to suppress should have been granted. *Gant* specifically holds that police officers may search a vehicle incident to arrest only where the suspect is within reaching distance of the vehicle, or there is reason to believe evidence of the arresting offense will be present in the vehicle. Id. at 491. In deciding *Gant*, the court revisited its previous decisions of *Chimel v. California* (1969), 395 U.S.752, 89 S.Ct. 2034 and *New York v. Belton* (1981), 453 U.S. 454, 101 S.Ct. 2860.

{¶ 18} In *Chimel*, police officers entered the defendant's home with an arrest warrant for burglary. Officers did not have a search warrant. Officers waited in the home for the defendant to return. When he returned, the officers asked to search his home. The defendant objected, however, and officers arrested him and searched the home. The search lasted approximately one hour and included the bedrooms, attic, and the garage. Evidence linking the defendant to the burglary was located and presented by the state at trial. *Chimel* at 753.

{¶ 19} The *Chimel* court concluded the search was unconstitutional, and evidence seized from Chimel's home should not have been admitted against him at trial. The court reasoned that searches incident to arrest should only include areas under the immediate control of the arrestee, where they may reach for either a weapon or conceal evidence. Allowing officers to search the home where a suspect has been arrested would result in law enforcement deliberately arresting individuals at home to allow a search where there would otherwise not be probable cause to obtain a search warrant. Id. at 767-768.

{¶ 20} The court revisited the rationale outlined in *Chimel* when deciding *Belton*. In *Belton*, the defendant was a passenger in a vehicle pulled over by police. Police officers smelled marijuana and saw an envelope on the floor that was marked "supergold," which they associated with marijuana. All four occupants were removed from the vehicle and arrested. Subsequently, one of the officers searched the vehicle and discovered cocaine in the pocket of the coat that was in the vehicle. Belton was charged with possession of cocaine. *Belton* at 455-456.

{¶ 21} Belton challenged the search of his coat and argued that once he was detained there was no longer a concern for officer safety or that evidence would be destroyed. Therefore, police had no authority to search the vehicle. Applying the area of immediate control rationale from *Chimel*, the *Belton* court concluded that police may search a vehicle that was recently occupied by an arrestee because the arrestee had immediate control over the area. *Belton* allowed police not only to

search the passenger area of the vehicle, but also any containers, clothing items, and purses that were left within the vehicle. Id. at 457-461.

{¶ 22} Significantly, Justice Stewart authored both *Chimel* and *Belton*. In *Chimel*, Justice Stewart concluded that a search of a home merely because an individual was arrested inside constituted an unreasonable search in violation of the Fourth Amendment. *Chimel* at 767. In *Belton*, Justice Stewart concluded it was not unreasonable to search a vehicle recently occupied by an arrestee, thus affording reduced privacy rights to a vehicle. *Belton* at 462.

{¶ 23} Although *Gant* strikes down the rationale in *Belton*, it distinguishes the facts of the two cases. In *Belton*, there were four unsecured suspects and only one officer with one set of handcuffs. In *Gant* two individuals were already secured by the police when Gant arrived, and there were five police officers on the scene. In *Belton* there was a much greater possibility that one of the four unrestrained suspects would be able to regain access to the vehicle. In the *Gant* majority opinion, Justice Stevens does not expressly overrule *Belton*, but relies on the key factual differences in the two cases to construct a much more narrow application of *Belton* than was previously administered.

{¶ 24} The reasoning of the *Gant* court applies only to cases in which police conduct an automobile search incident to arrest after the suspect has been secured. The *Gant* court focused on the justifications established for searches incident to arrest in *Chimel*. The rationale in *Chimel* for searches incident to arrest is to prevent the suspect from obtaining a weapon or to prevent the

destruction of evidence. The *Gant* court found neither of those justifications present in the case before it.

{¶ 25} Gant had been arrested, handcuffed, and detained in a patrol car at the time his vehicle was searched. He had no possible ability to regain access to his vehicle. Further, Gant was arrested for driving with a suspended license. There could not be related evidence of this offense found inside the vehicle. *Gant*, supra, at 492.

{¶ 26} The state argues that the search of appellant's vehicle was an inventory search as defined in *State v. Mesa*, 87 Ohio St.3d 105, 1999-Ohio-253, and *Colorado v. Bertine* (1987), 479 U.S. 367, 371, 107 S.Ct. 738, 93 L.Ed.2d 739. However, *Gant* never mentions inventory searches in its analysis. Gant's vehicle was legally parked in another individual's driveway, yet the court never mentioned the inventory search as an applicable exception and ultimately suppressed the evidence.

{¶ 27} On June 1, 2009, the Sixth Circuit considered this issue in *United States v. Lopez* (C.A. 6, 2009), FED App. No. 0193P. In *Lopez*, the defendant was arrested for reckless driving on the freeway. After Lopez was secured in the police car, officers searched the vehicle and discovered a gun and cocaine under the driver's seat. Lopez argued that police should not have searched his vehicle once he was already detained in the police car.

{¶ 28} The Sixth Circuit concluded *Belton* was no longer applicable and applied *Gant*. Under *Gant*, the court concluded that because Lopez was placed

under arrest and detained in the police car, he no longer posed a threat to officer safety and evidence of the arresting offense would not be found in the vehicle, therefore, the evidence must be suppressed. Although Lopez's car was on the side of the freeway, the Sixth Circuit did not apply the inventory search exception to allow the evidence to be admitted.

{¶ 29} In the instant case, there is no evidence appellant's car was parked illegally. The officer specifically testified that he was unaware of the parking situation on the street where appellant's car was parked. (Tr. 41.) There is no evidence in the record to support the car was parked illegally. When a vehicle is legally parked, police may not search it incident to arrest and conduct an inventory search. See *State v. Clay*, Cuyahoga App. No. 91942, 2009-Ohio-2725; *State v. Ross* (May 20, 1993), Cuyahoga App. No. 62215, citing *State v. Collura* (1991), 72 Ohio App.3d 364, 594 N.E.2d 975. If *Gant* had intended the inventory exception to continue to apply when the driver of a car is arrested, it clearly would have applied to Gant; however, the court declined to do so.

{¶ 30} The dissent attempts to distinguish *Clay*, *Ross,* and *Collura* because the defendants in these cases were never seen driving the vehicles that were subsequently searched. However, the holdings in those cases do not rely on that condition. The *Clay* court did note that the defendant was not seen in the vehicle; however, the court specifically stated, "[e]ven if he had just exited the vehicle, it was parked on private property, and there was no public concern requiring its removal." *Clay* at _28. While the appellant in this case was not on private

property, there was no evidence his car was illegally parked or that it caused any public concern where it was parked.

{¶ 31} Similarly, in *Ross*, the defendant was never seen in the vehicle that was searched; however, this court did not rest its decision on that fact. Although this court did conclude the defendant must be near the vehicle at the time of arrest, it also concluded that in addition the state must demonstrate the car was illegally parked or caused some public concern. *Ross*, supra.

{¶ 32} In *Collura*, the defendant never denied the searched vehicle was his, however, he maintained it should not have been searched because it was legally parked. The court agreed with the defendant and concluded that, even though the defendant was parked in a parking lot that did not permit overnight parking, there was still no overriding public safety concern that would allow police to tow and inventory the vehicle. *Collura* at 370-371.

{¶ 33} The United States Supreme Court admitted it has been under pressure to revisit its reasoning in *Belton*. *Belton* has been interpreted differently by the courts. Although the government argued a broad interpretation of *Belton* should remain in effect because it provides a bright-line rule for law enforcement, the court disagreed. Some courts have read *Belton* as broadly as possible, allowing for a vehicle to be searched every time the driver is arrested, while other courts have been conflicted as to how close in time the search must be incident to the arrest and whether the suspect must still be on the scene for the search to be valid.

{¶ 34} The government also stressed the expansive view in *Belton* provides the most protection for police officers. This argument was also dismissed by the court. *Gant* will still allow the government to conduct warrantless searches of vehicles either when the suspect has not yet been arrested or where another exception to the warrant requirement applies. *Gant* merely disallows a search of the vehicle incident to arrest when the suspect is already detained and no longer poses a threat to officer safety and no possible evidence related to the offense could be found in the vehicle. The *Gant* court concluded that *Belton* created the mentality among law enforcement that there was an entitlement to search the vehicle incident to arrest, rather than an exception to the warrant requirement.

{¶ 35} The majority opinion emphasized the importance of *Chimel* and its rationale that found searches do not require a warrant when the suspect may be within reaching distance of either a weapon or evidence. Justice Scalia's concurring opinion argued the officer safety rationale outlined in *Chimel* should be abandoned. He pointed out that officers conducting traffic stops face significant safety issues, however, the greatest danger is when the vehicle is initially stopped. Once a suspect has been ordered out of the vehicle and handcuffed, there is no longer any viable concern for officer safety. Justice Scalia contended that the emphasis of the *Belton* court on officer safety was merely a charade to allow for broader evidence gathering searches than were permitted prior to *Chimel*. *Gant* at 501-502 (Scalia, J., concurring).

{¶ 36} Justice Scalia concluded a vehicle should be searched incident to arrest only when there may be evidence of the crime for which the suspect was arrested or there is probable cause to believe there is evidence of another crime. His analysis conflicts with the majority opinion of the court, as well as Justice Alito's dissent; however, Justice Scalia joined in the majority because he believed the dissent's reasoning would allow unconstitutional searches to continue.

{¶ 37} Justice Alito's dissent argued that the principle of stare decisis prevents the court from overruling *Belton*. The majority refuted this notion when they state the court has never relied on stare decisis "to justify the continuance of an unconstitutional police practice." *Gant* at 506 (Alito, J., dissenting). *Gant* will have a significant impact on law enforcement agencies who will have to retrain their officers on conducting searches incident to arrest.

{¶ 38} In its brief, the State relies heavily on *State v. Mesa* (1999), 87 Ohio St.3d 105, 108, 1999-Ohio-253, which allows the police to conduct a search of a vehicle prior to impound. The *Mesa* court held that searching vehicles prior to impound helps protect individuals' property, protect police from dangerous contraband, and protect police against claims of lost property. Id. at 109.

{¶ 39} Despite the practical problems of overturning *Belton*, *Gant* is clear. Once an individual has been arrested, police officers may no longer perform a search of the vehicle incident to arrest, unless the suspect is close enough to the vehicle to gain access to a possible weapon or evidence of the offense.

{¶ 40} The facts in *Gant* are nearly identical to those in the present case. Appellant, like Gant, was arrested for driving under a suspended license. He was handcuffed and placed in a patrol car where he no longer posed a risk to officer safety. There would be no evidence of the offense of driving with a suspended license present in his vehicle. There is also no evidence in the record to indicate the vehicle was unlawfully parked, which would have required a tow. The arresting officer specifically testified that the vehicle was searched incident to arrest. (Tr. 11.) A search incident to arrest in these circumstances is clearly not permitted under *Gant*. Appellant was arrested and detained and no longer presented any of the safety or evidentiary concerns that would justify a warrantless search.

{¶ 41} As the State has articulated no other exception to the warrant requirement, appellant's first assignment of error is sustained.

{¶ 42} ASSIGNMENT OF ERROR NUMBER TWO:

> "GARY THOMAS WAS DENIED HIS CONSTITUTIONAL RIGHT NOT TO BE PLACED IN JEOPARDY TWO TIMES FOR THE SAME OFFENSE, BY HIS CONVICTIONS FOR TRAFFICKING IN COCAINE AND POSSESSING COCAINE, AS THOSE CRIMES ARE ALLIED OFFENSES OF SIMILAR IMPORT."

{¶ 43} Finding the evidence should have been suppressed, appellant's second assignment of error is moot.

Judgment reversed, conviction vacated and cause remanded.

It is ordered that appellant recover from appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE, JUDGE

SEAN C. GALLAGHER, P.J., DISSENTS (SEE SEPARATE OPINION)
KENNETH A. ROCCO, J., CONCURS

SEAN C. GALLAGHER, P.J., DISSENTING:

{¶ 44} I respectfully dissent. Although I agree with the majority that the Supreme Court's recent decision in *Gant* prohibits the officers in this case from searching Thomas's vehicle incident to his arrest, I would still find that the search was lawful. In *Gant*, the Supreme Court stated that officers may search a vehicle if they obtain a warrant *or* show that another exception to the warrant requirement applies. Here, the inventory search exception clearly applies.

{¶ 45} In a similar case, *United States v. Mullaney* (2009), E.D. Idaho 4:08CR239-E-BLW, the appellant argued that the warrantless search of his vehicle was not justified pursuant to *Gant*. Mullaney was pulled over for a traffic violation; a record check revealed that he did not have a valid license. Mullaney was placed under arrest, and his car was searched. Illegal drugs were recovered from the ashtray. The court agreed that the officers could not search the car incident to arrest pursuant to *Gant*, however, the court determined that the inventory search exception

applied. The court reasoned that the officer testified it was state police procedure to tow a vehicle when the driver is arrested for driving without a valid license and no passenger is available to drive the vehicle. Since Mullaney's car was being towed, the court held that the search was valid under the inventory search exception. *United States v. Mullaney*. See, also, *Arizona v. Rojers* (2007), 216 Ariz. 555, 169 P.3d 651.

{¶ 46} An inventory search is a well-defined exception to the warrant requirement. *State v. Mesa* (1999), 87 Ohio St.3d 105, 108, 1999-Ohio-253, 717 N.E.2d 329, citing *Colorado v. Bertine* (1987), 479 U.S. 367, 107 S.Ct. 738, 93 L.Ed.2d 739. Inventory searches involve administrative procedures conducted by law enforcement officers and are intended to protect an individual's property while it is in police custody, protect police against claims of lost, stolen, or vandalized property, and protect police from dangerous instrumentalities. Id. at 109, citing *South Dakota v. Opperman* (1976), 428 U.S. 364, 369, 96 S.Ct. 3092, 49 L.Ed.2d 1000. Because inventory searches are unrelated to criminal investigations, probable cause is not implicated, but rather the validity of the search is judged by the reasonableness standard. Id.

{¶ 47} An inventory search of a lawfully impounded vehicle must be conducted in good faith and in accordance with reasonable standardized procedures or established routine. Id. "Like glove compartments, consoles are 'a place of temporary storage of valuables,' and they are areas of a vehicle that are normally part of a standard inventory search." (Internal citations omitted.) Id.

{¶ 48} "'In determining the lawfulness of the impoundment, authority to impound should never be assumed.'" *State v. Taylor* (1996), 114 Ohio App.3d 416, 422, 683

N.E.2d 367, quoting Katz, Ohio Arrest, Search and Seizure (1996), 224-225. A vehicle may be impounded when "'it is evidence in a criminal case, used to commit a crime, obtained with funds derived from criminal activities, or unlawfully parked or obstructing traffic; *or if the occupant of the vehicle is arrested*; or when impoundment is otherwise authorized by statute or municipal ordinance.'" Id. at 422, quoting Katz, supra, at 224-225. See, also, *Opperman,* 428 U.S. at 369. Moreover, the United States Supreme Court has stated that police may exercise discretion to impound a vehicle, "so long as that discretion is exercised according to standard criteria and on the basis of something other than suspicion of evidence of criminal activity." *Bertine*, 479 U.S. at 375.

{¶ 49} Although the officer testified that he searched the car incident to arrest and to inventory it for tow, the officer's characterization of the search is not conclusive as to the legality of the search, just as an officer's subjective belief is irrelevant as to the legality of an arrest. See *State v. Hansard*, 4th Dist. No. 07CA3177, 2008-Ohio-3349. In this case, the officer testified that they were having the vehicle towed and that it is standard Cleveland police policy to tow the vehicle when someone is arrested for operating a vehicle without a license. Because the search was conducted prior to the tow and was completed according to standard police policy, I would find that this was an inventory search.

{¶ 50} A copy of the Cleveland Police Department's tow policy was not entered into evidence; however, such documentary evidence is not essential to establish the validity of the inventory search. *State v. Hobbs*, Cuyahoga App. No. 85889, 2005-Ohio-3856; *State v. Earley*, Montgomery App. No. 191961, 2002-Ohio-4112; see, also,

State v. Semenchuk (1997), 122 Ohio App.3d 30, 701 N.E.2d 19; *State v. Gordon* (1994), 95 Ohio App.3d 334, 642 N.E.2d 440. Further, whether a car is legally parked does not affect whether the police can inventory and tow a vehicle. See *State v. Wilson* (June 23, 1997), Medina App. No. 2624-M. In the instant case, the officer testified that it was standard Cleveland police procedure to tow a vehicle when someone is arrested for driving without a license.

{¶ 51} Finally, I disagree with the majority's sweeping statement that "[w]hen a vehicle is legally parked, police may not search it incident to arrest and conduct an inventory search." First, *Gant* does not stand for the proposition that a car can never be searched if it is legally parked. Second, the other cases cited by the majority do not stand for this proposition either. None of the defendants in *Clay*, *Ross*, or *Collura* were seen driving the vehicle searched. All were arrested for crimes that did not involve the vehicle searched. Thomas, however, was arrested for driving without a license. The police may tow a vehicle when the driver is arrested. Accordingly, I would find that the inventory search was conducted in good faith and in accordance with standard procedure and thus was a lawful search.