

WASHINGTON LAW DOES NOT REQUIRE PASSENGERS TO HAVE OR SHOW DRIVER'S LICENSES OR ANY OTHER FORM OF IDENTIFICATION!

It is undisputed that the CrRLJ 1.1 decisional law of this state does NOT require PASSENGERS to have or show a "Drivers License" or any other form of "Picture Identification."

"Mr. Barwick was not driving. Thus, there was no requirement he have a driver's license on his person. Indeed, there is no general requirement in this country for citizens to carry any identification." State v. Barwick, 66 Wn. App. 706 at 709, 833 P.2d 421 (July 30, 1992).

"An officer may not require a passenger in a vehicle stopped for an infraction to provide identification." State v. Rankin, 108 Wn.App. 948, at 954, 33 P.3d 1090 (October 29, 2001).

"Vehicle passengers are not required to carry driver's licenses or other identification." State v. Cole, 73 Wn. App. 844, 848, 871 P.2d 656 (1994) (citing State v. Barwick, 66 Wn. App. 706, 709, 833 P.2d (1992))." State v. Chelly, 94 Wn. App. 254 at footnote #18 on page 260, 970 P.2d 376 (January 25, 1999).

"... a passenger is also free not to respond to police officer's questions. State v. Rankin, 108 Wn.App. 948, 33 P.3d 1090 (2001). . . . a passenger is also free to leave once any exigent circumstances regarding control of his or her movements dissipates. Mendez, 137 Wn.2d at 223-24; Armenta, 134 Wn.2d at 10-122, 16. . . . Thus, a passenger in a vehicle stopped by police officers can contest the lawfulness of the stop." State v. Byrd, 110 Wn.App. 259, at 263-64, 39 P.3d 1010 (February 11, 2002).

"... a passenger may challenge a stop of a vehicle on Fourth Amendment grounds even if she has no possessory interest or ownership interest in the vehicle." United States v. Garcia, 205 F.3d 1182, 1187-88 (9th Cir. 2000), petition for cert. filed (U.S. June 5, 2000) (No. 99-10021); United States v. Rodriguez, 869 F.2d 479, 482-83 (9th Cir.1989)." U.S. v. Twilley, 222 F.3d 1092, at 1095 (9th Cir. August 14, 2000).

"[A] stop based on a parking violation committed by the driver does not reasonably provide an officer with grounds to require identification of individuals in the car other than the driver, unless other circumstances give the police independent cause to question passengers." State v. Larson, 93 Wn.2d 638, at 642, 61 P.2d 771 (1980). See also State v. Cook, 104 Wn.App. 186, 15 P.3d 677 (2001).

"There is probable cause to believe that the driver has committed a minor vehicular offense, but there is no reason to stop or detain the passengers." Maryland v. Wilson, 519 U.S. 408, 117 S.Ct. 888, 886, 137 L.Ed.2d 41 (1997).

"Mendez had not committed a crime. Without more, and in view of the officers testimony that Mendez did not do anything to make them fearful for their safety except run away, we cannot conclude, as the Court of Appeals did that "increased police protection" justified the seizure and subsequent arrest of Mendez. The officers, the trial court, and the Court of Appeals were unable to

articulate an objective safety rationale under article 1, section 7 for the officers' ordering Mendez back into the vehicle or a basis for a Terry Stop. CONCLUSION Mendez was a passenger in a vehicle involved in a legitimate traffic stop. After a police cruiser had made the vehicle stop for investigation of a traffic infraction, Mendez exited and began walking away. The police ordered him to stop. Mendez kept walking and eventually began running away. The police caught him, searched him incident to the arrest, and found a marijuana pipe. The police were unable to articulate facts that reasonably suggested a problematic situation at the scene of the traffic stop that warranted stopping Mendez from leaving. Neither officer expressed concerns for their safety from the fleeing Mendez. The police had no probable cause to suspect Mendez of having committed a crime or any expectation he was about to commit a crime. [15] The trial court should have suppressed the evidence of the marijuana pipe the police found on Mendez in the search incident to his arrest because the arrest was unconstitutional under article 1, section 7. We reverse the judgment against Mendez and order denying suppression of the evidence, and remand the case to the trial court for proceedings consistent with this opinion." State v. Mendez, 137 Wn.2d 208, at 226, 970 P.2d 722 (January 28, 1999).

"Individual constitutional rights are not extinguished by mere presence in a stopped vehicle. See, e.g., Mendez, 137 Wn.2d at 218-20 (under article 1, section 7, rights of passengers are independent of driver); State v. Larson, 93 Wn.2d 638, 642-645, 611 P.2d 771 (1980) (**stop of vehicle by driver does not in and of itself reasonably provide officer with grounds to investigate passenger**; in order to be valid under article 1, section 7, officer must have independent basis to suspect passenger). See also United States v. Di Re, 332 U.S. 581, 587, 68 S. Ct. 222, 92 L.Ed. 210 (1948) (**a person does not, "by mere presence in a suspected car, lose]] immunities from search of his person to which he would otherwise be entitled."** State v. Parker, 139 Wn.2d 486, at 498 (November 4, 1999).

"... a passenger is not seized when a driver is stopped for a suspected traffic violation and may walk away, absent an articulable concern for the safety of officers and others at the scene. Id. at 220. **... Passengers are not automatically seized by the stop. They may get out of the car and walk away. Id. at 222.** The traffic infraction creates probable cause to seize only the driver. It does not diminish the privacy rights of the passengers. Id. A passenger is seized only when his or her freedom of movement is restrained "by means of physical force or a show of authority.[.]" **... Article 1, section 7 affords greater privacy to automobile passengers than the Fourth Amendment.** It is therefore, more restrictive of law enforcement officers' authority over passengers during traffic stops. Mendez, 137 Wn.2d at 219. **... Mr. Hays was sitting in the passenger seat. He was therefore not seized and was free to walk away from the initial stop."** City of Spokane v. Hays, 99 Wn. App. 653, 657, 658, 659-660, 995 P.2d 88 (March 9, 2000.)

"While officers can take all necessary steps to control the driver during a traffic stop, the Washington Constitution restricts police authority over automobile passengers. ... Police officers may not require people in the car other than the driver to give identification unless other circumstances give the police independent cause to question the passengers. ... Parker, the Supreme Court examined three cases where police ordered the passengers to leave their personal belongings in the vehicle. When the drivers were arrested, the vehicles were searched and contraband was found in the passengers belongings. Parker, 139 Wn.2d at 502-04, held that although officers may order passengers in or out of a stopped vehicle as necessary to control the scene, **the passenger's belongings may not be searched absent independent, articulable, objective suspicion to support such a search."** State v. Cook, 104 Wn. App. 186, 189, 190-191 (January 9, 2001).

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