

Drivers Have A Reasonable Expectation Of Privacy In A Car Rented By Another

14 May 2018

In [Byrd v. United States](#), Terrence Byrd was pulled over while driving a car rented by Latasha Reed, although the rental agreement did not list Byrd as an authorized driver. The police searched Byrd's car and discovered 49 bricks of heroin in the trunk. Byrd moved to suppress the evidence as fruits of an unlawful search, but the district court and Third Circuit both concluded that since he was not authorized to drive the rental car, he had no expectation of privacy in its contents. A unanimous Court, in an opinion by Justice Kennedy, reversed, holding that since Byrd was the sole occupant of the rental car, his ability to exclude others from the vehicle created a reasonable expectation of privacy over it, much like the case in *Jones v. United States*, 362 U.S. 257 (1960), where an occupant of an apartment was entitled to the same Fourth Amendment protection even though he was not an official renter. The Court acknowledged, however, that if Byrd had stolen or fraudulently obtained the car he would not have any protections, and allowed the Government to argue that issue on remand, as well as whether the officers had probable cause to search regardless. Justice Thomas, joined by Justice Gorsuch, filed a concurrence expressing his doubts on test for determining a person's reasonable expectation of privacy, noting questions that were not (and should have been) part of the case. Justice Alito filed a short concurrence noting that the facts concerning the rental agreement and other issues may be important to the analysis as well.

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TAGGED: [scotus](#), [Byrd v. United States](#), [Jones v. United States](#), [Fourth Amendment](#)