

Monday, April 23, 2007

When state constitutions grant more rights than the federal constitution.

The Bill of Rights. (From the public domain.) Numerous state supreme courts provide broader civil liberties protections than does the United States Constitution. A case in point is last month's phenomenal Vermont Supreme Court ruling generally requiring a warrant to search a car subsequent to a lawful arrest of the driver, absent exigent circumstances. *Vermont v. Bauder*, 2007 VT 16 (March 16, 2007). Relying on Article 11 of Vermont's Constitution -- which it says provides broader rights than the Fourth Amendment to the United States Constitution -- the Vermont Supreme Court declined to follow the U.S. Supreme Court's ruling in *New York v. Belton*, 453 U.S. 454 (1981), which holds that "when a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile." *New York v. Belton*, 453 U.S. at 460. Thanks to Flex Your Rights for reporting on this case on its website. Jon Katz.

Posted by Jon Katz in Criminal Defense at 03:15