

Tuesday, June 19, 2007

Supreme Court confirms car passengers' Fourth Amendment rights.

The Bill of Rights. (From the public domain.) On June 18, 2007, the United States Supreme Court unanimously held that arrested car passengers -- not just drivers -- have standing to challenge the legality of the car stop. The Fourth Amendment kicks in at the time of the stop of the car -- rather than needing to await a formal arrest -- because a Fourth Amendment seizure generally takes place at the time the police stop the car in which the passenger is riding. The case is *Brendlin v. California*, ___ U.S. __ (June 18, 2007). In the course of addressing the Supreme Court's relevant precedents, *Brendlin* confirms that the Court previously ruled that a car's driver is seized when police effectuate a traffic stop. As to passengers, *Brendlin* adds: "[A]lthough we have not, until today, squarely answered the question whether a passenger is also seized [by a police traffic stop], we have said over and over in dicta that during a traffic stop an officer seizes everyone in the vehicle, not just the driver." *Brendlin* notes that its conclusion that car passengers have Fourth Amendment standing to challenge a car stop "comports with the views of all nine Federal Courts of Appeals, and nearly every state court, to have ruled on the question." Nothing beats a clear Supreme Court ruling to show a trial judge to get the right Fourth Amendment ruling for a defendant. Jon Katz.

Posted by Jon Katz in Criminal Defense at 02:00