

Court Widens Police Arrest, Search Roles

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The D.C. Court of Appeals yesterday reversed two Superior Court judges and broadened a policeman's right to arrest and search persons found either with apparently stolen goods or near the scene of a crime.

The rulings, in two unrelated cases, represented victories for government prosecutors who had argued that policemen should be allowed to apply "common sense" to detain and search suspects under some circumstances.

In one decision, the court backed away from two opinions it handed down earlier this year holding that policeman have no right to make arrests without probable cause to believe a crime had been committed.

In this case, it upheld the right of a policeman to arrest a man trying to pawn a typewriter marked property of "(D.C.) Department of Public Health" even though the policeman had no proof the typewriter had been stolen.

The second case involved the court's rejection of a U.S. Court of Appeals decision last year placing stringent restrictions on the degree to which a policeman may search persons arrested on minor violations. The U.S. Court of Appeals itself has since vacated that decision.

As the result of the Feb. 1 court reorganization act, the D.C. Court of Appeals now is the chief appellate for the city.

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In the second case, it held yesterday that police were justified in searching a man suspected of stealing automobile tires and charging him with possession of heroin after finding the drug in his pocket.

According to Charles R. Work, assistant chief of the U.S. attorney's office at Superior Court, the decisions "clarify what the police can do." He said they show that the court will uphold "good inquisitive police work and we hope that good inquisitive policework will continue."

Overturning Superior Court Judge Edmond T. Daly, a three-judge appeals panel found that the judge erred last April when he granted a motion to suppress evidence against a man found in a pawnshop with a typewriter.

The man, Earl S. Wallace, 7336 79th Ave., Hyattsville, was arrested in a Southeast pawn shop with the typewriter after a policeman on a routine check discovered the typewriter bore a sticker "Department of Public Health."

The policeman, according to testimony at the hearing before Judge Daly, took Wallace and the typewriter to a police station where he learned that the typewriter had been reported stolen. He then booked Wallace on a charge of receiving stolen property.

In granting the motion to suppress, which in effect threw out the charge, Judge Daly found the policeman had lacked cause to make the arrest because he did not know the typewriter had been stolen until after Wallace was detained.

"... The only question pre-

sented to the court by the suppression motion was whether it was reasonable for the officer to conclude that the sticker meant what it said," the appeals panel said. "We hold that it was."

Superior Court Judge Eugene Hamilton was overruled in the second case in which he had held that police did not have the right to thoroughly search Curtis E. Bynun, 18, of 2320 Chester St. SE

Police arrested him on a narcotics charge in November 1970 after searching his pockets after finding him near tires that had been removed from a car.

Judge Hamilton held that the search "into his pockets was an unconstitutional intrusion." But the three-judge appeals panel said, "To say that the police may curtail the liberty of the accused but refrain from impinging upon the sanctity of his pockets . . . is to ignore the custodial duties which devolve upon arresting authorities."