

US V. Katzin (Warrantless Installation of Global Positioning System)

2. Valid, Warrantless Searches Based on Probable Cause

As an alternative, the Government suggests that warrantless GPS searches can be constitutional if the police have probable cause, pointing principally to a line of cases addressing the “automobile exception” to the warrant requirement. ¹⁰ We do not agree.¹¹

¹⁰ We note that a warrantless search based on probable cause is also reasonable in the presence of certain “exigent circumstances” that “make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable under the Fourth Amendment.” *Kentucky v. King*, 131 S. Ct. 1849, 1856 (2011) (internal quotation marks omitted). Such exigent circumstances include, but are not limited to, “hot pursuit of a suspected felon, the possibility that evidence may be removed or destroyed, and danger to the lives of officers or others.” *United States v. Coles*, 437 F.3d 361, 366 (3d Cir. 2006) (“In these limited situations, the need for effective law enforcement trumps the right of privacy and the requirement of a search warrant, thereby excusing an otherwise unconstitutional intrusion.” (footnote omitted)). In this case, we perceive (and the Government points to) no exigency that would have justified the police in immediately searching Harry Katzin’s van. We do not discount, therefore, the possibility that under highly specific circumstances — such as where life is on the line, say — the police can justify undertaking a warrantless GPS search based on probable cause.

¹¹ Here we also assume, without deciding, that the police had probable cause for purposes of our analysis.

Source: <http://www2.ca3.uscourts.gov/opinarch/122548p.pdf>