

[J-27-2007]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 99 MAP 2006
	:	
Appellant	:	Appeal from the Order of the Superior
	:	Court entered January 23, 2006 at No.
	:	669 EDA 2005, vacating and remanding
v.	:	the judgment of sentence of the Court of
	:	Common Pleas of Bucks County entered
	:	March 10, 2005 at No. 56/2005.
JOSE HERNANDEZ,	:	
	:	
	:	892 A.2d 11 (Pa. Super. 2006)
Appellee	:	
	:	
	:	ARGUED: April 16, 2007

CONCURRING OPINION

MR. JUSTICE SAYLOR

DECIDED: November 21, 2007

Subject to the understanding that the majority addresses itself only to a subset of the circumstances that can reasonably be deemed “exigent” for purposes of the automobile exception to the warrant requirement as it pertains in Pennsylvania, I join the majority opinion. I obviously share Mr. Justice Castille’s view that the exception applies more broadly, as reflected in my decision to join the lead opinion in Commonwealth v. McCree, 592 Pa. 238, 924 A.2d 621 (2007) (plurality). See also Commonwealth v. Perry, 568 Pa. 499, 536-38, 798 A.2d 697, 719-20 (2002) (Saylor, J., concurring). I believe that the solution advanced in McCree, which favors the adoption of the federal automobile exception subject to a warrant-when-practicable requirement, represents an appropriate stance and an essential resolution of the longstanding

disharmony regarding fundamental principles governing police conduct in this line of cases.

Finally, I see no further need to consider whether the search in this case falls within the broader scope of the exigent circumstances exception, since I agree with the majority that the affidavit of probable cause contains sufficient independent information to support the issuance of the search warrant.

Mr. Justice Eakin joins this concurring opinion.