

**[J-213-1998]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	:	No. 21 M.D. Appeal Docket 1998
	:	
Appellee	:	Appeal from the order of the Superior
	:	Court dated December 31, 1996 at No.
	:	131 PHL 96, affirming the judgment of
v.	:	sentence entered December 15, 1995 in
	:	the Court of Common Pleas of Luzerne
	:	County at No. 553 of 1995
DARRYL LUV,	:	
	:	698 A.2d 109 (Pa.Super. 1996)
Appellant	:	
	:	ARGUED: October 21, 1998
	:	
	:	
	:	

**CONCURRING OPINION**

**MR. JUSTICE CASTILLE**

**DECIDED: JULY 22, 1999**

I concur in the result reached by the majority but write separately only to note my continued disagreement with this Court's decisions in In re O.A., 555 Pa. 666, 717 A.2d. 495 (1998), Commonwealth v. White, 543 Pa. 45, 669 A.2d 896 (1995), and Commonwealth v. Melendez, 544 Pa. 323, 676 A.2d 226 (1996), which are relied upon by the majority in disposing of this instant matter. In each of these three cases, this Court held that the warrantless searches of either the item or person in question was not justified by the circumstances. I dissented in each matter on the grounds that I believed that probable cause existed which would justify the warrantless searches.

I would further note my belief that the majority continues to construe too narrowly the automobile exception to the warrant requirements. In my dissent in White, I proposed

the adoption of a bright line rule that would allow warrantless searches of all automobiles for which police have independent probable cause to believe that the occupants of the vehicle have committed a felony or that the vehicle has been used in furtherance of the commission of a felony, or where the police officer has reason to believe that evidence of a crime is concealed in the vehicle or that weapons accessible to the occupants are in the vehicle. White, 543 Pa. at 71, 669 A.2d at 909-10. I continue to urge the adoption of such a rule to prevent police officers from having to make a choice whether, on the one hand, to take the time to obtain a warrant and thereby risk flight of the automobile or, on the other hand, not to obtain a warrant and risk suppression of the evidence obtained in the search of the automobile.

We must remain mindful that the exclusionary rule was originally formulated as a method by which to deter police misconduct, not to prevent police conduct in its entirety.