IN THE UTAH COURT OF APPEALS

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State of Utah, Plaintiff and Appellee, v. Casey Craig Weaver, Defendant and Appellant.	MEMORANDUM DECISION (Not For Official Publication) Case No. 20070141-CA F I L E D (March 27, 2008) 2008 UT App 101

Second District, Ogden Department, 051904357
The Honorable Parley R. Baldwin

Attorneys: Randall W. Richards, Ogden, for Appellant
Mark L. Shurtleff and Ryan D. Tenney, Salt Lake City, for Appellee

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Before Judges Greenwood, Davis, and Orme.

ORME, Judge:

We have determined that "[t]he facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument." Utah R. App. P. 29(a)(3). Moreover, the issues presented are readily resolved under applicable law.

Defendant contends that the police violated his rights "by not asking [him] if anything in the vehicle belonged to [him] and by not allowing him to remove his private property prior to the inventory search."[1] We disagree.

"An inventory search of an automobile is a well-defined exception to the warrant requirement of the Fourth Amendment." State v. Johnson, 745 P.2d 452, 454 (Utah 1987). "[I]nventory procedures serve to protect an owner's property while it is in the custody of the police, to insure against claims of lost, stolen, or vandalized property, and to guard the police from danger." Colorado v. Bertine, 479 U.S. 367, 372 (1987). To that end, "police officers may open closed containers while conducting a routine inventory search of an impounded vehicle," so long as they "follow[] standard police procedures that mandate the opening of such containers in every impounded vehicle." Id. at

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1. Defendant does not challenge the initial stop, the police officer's decision to impound the vehicle, or the legality of the vehicle search itself. In the latter regard, he specifically does not contend the inventory search was inconsistent with standardized departmental procedures. See State v. Shamblin, 763 P.2d 425, 426 (Utah Ct. App. 1988).

376-77 (Blackmun, J., concurring). Accord State v. Shamblin, 763 P.2d 425, 427-28 (Utah Ct. App. 1988).

It would be "countersensical" to allow an individual to remove his personal belongings from a vehicle that is the subject of an inventory search before the search occurs, especially in circumstances where, as here, the individual has no ownership or verifiable possessory interest in the vehicle. United States v. Penn, 233 F.3d 1111, 1116 (9th Cir. 2000), cert. denied, 532 U.S. 1033 (2001). See also id. ("It is hard to see how the owner's property can be protected from theft, and the police and city from claims for lost or stolen property, without a full listing of all items in the car before any of it is released to anyone, with a receipt."). Indeed, if Defendant were free to remove the backpack before the search and the backpack proved to belong to the vehicle's absent owner rather than Defendant, the police would be subject to the very kind of claim against which the inventory search doctrine is designed to protect.

Defendant argues that State v. Bissegger, 2003 UT App 256, 76 P.3d 178, and State v. Valdez, 2003 UT App 100, 68 P.3d 1052, support his view of the law. We disagree. Bissegger was a case involving the Fourth Amendment standing of a passenger in the context of a search that exceeded the scope of detention when police requested consent to search after all suspicion justifying the initial traffic stop was dispelled. See 2003 UT App 256, ¶¶ 5, 17-18, 20-21. And the facts of Valdez are entirely inapposite. See 2003 UT App 100, ¶¶ 2-5. Most importantly, in neither case was the validity of an inventory search at issue.

Affirmed.[2]

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Gregory K. Orme, Judge

WE CONCUR:

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Pamela T. Greenwood,
Presiding Judge

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James Z. Davis, Judge

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2. Having concluded that the police officers here committed no Fourth Amendment violations in conducting their inventory search, we need not address whether the search might also be justified as a search incident to arrest.