

Pennsylvania v. Alexander (2020). Justice Donohue authored majority opinion. Justice Wecht joined majority opinion.

Background: The case arose after Philadelphia police stopped Keith Alexander's car in May 2016, smelled marijuana, and—without a warrant—used his key to open a locked box inside the vehicle, finding heroin. His motion to suppress was denied, he was convicted, and the Superior Court upheld the search under *Commonwealth v. Gary*, prompting review by the Pennsylvania Supreme Court.

Holding: The Court overruled *Gary* mandating return to *pre-Gary* application of its “limited automobile exception under Article 1, Section 8 of [the Pennsylvania] Constitution, pursuant to which warrantless vehicles searches require both probable cause and exigent circumstances[.]” (p. 52) While the Court acknowledged the text of Article I, Section 8, it emphasized that constitutional interpretation must also reflect broader principles found in Article I, Section 1—particularly Pennsylvania's strong tradition of protecting privacy rights. The court determined *Gary* had effectively overturned decades of decisions recognizing Article I, Section 8 as providing broader protections than the federal standard, often drawing on Article I, Section 1's recognition of inherent and inalienable rights. It noted *Gary*'s holding had not been widely cited or relied upon, and that its adoption of the federal rule was based more on pragmatic policing concerns than constitutional interpretation.

Majority analysis: The Court's analysis relied heavily on state precedent, including *Commonwealth v. Edmunds*, *Commonwealth v. DeJohn*, *Commonwealth v. Shaw*, and *Commonwealth v. White*. While the Court acknowledged the text of Article I, Section 8, it adopted a broader interpretive approach grounded in Article I, Section 1 and the underlying values of the Pennsylvania Constitution—particularly its long-standing commitment to privacy, which the Court asserted has been protected for over two centuries. The majority found Justice Todd's dissent in *Gary* persuasive, especially her argument that the language of Article I, Section 8—specifically the terms “possessions” and “any place”—supports broader privacy protections than the Fourth Amendment, particularly with respect to items inside vehicles. The Court acknowledged that until the mid-1990s, Pennsylvania and federal automobile search rules were largely equivalent, though it argued that earlier cases hinted at stronger privacy protections under Pennsylvania's Constitution. Rejecting the dissent's originalist approach, the Court rooted its reasoning in Pennsylvania's heightened privacy protections, distinguishing its analysis from the federal Fourth Amendment framework. It applied the four-part test established in *Edmunds*, which considers: (1) the constitutional text, (2) the history of the provision, (3) relevant case law from other states, and (4) policy considerations.

Dissent (Saylor): Chief Justice Saylor dissented. Saylor “wouldn't overrule the holding of *Commonwealth v. Gary*... which was supported by a majority of Justices including myself” (p. 1).

Dissent Analysis: He rejected the majority's textual reasoning that Article I, Section 8 of the Pennsylvania Constitution provides greater protection than the Fourth Amendment due to its use of “possessions” instead of “effects,” asserting, “I see no difference between ‘possessions’ and ‘effects’... leaving no doubt but that textually and historically the federal and state protections...

are essentially the same” (p. 2). Drawing on the Massachusetts Constitution—a model for both—and Pennsylvania’s 1790 adoption of the language alongside ratification of the Fourth Amendment, he concluded the framers intended parallel scope. Chief Justice Saylor criticized the Court’s post-*Commonwealth v. Edmunds* expansion of a state exclusionary rule broader than the federal version, noting “the absence of any textual delineation of an exclusionary precept in the Pennsylvania Constitution” and “this Court’s non-recognition of a state-level exclusionary rule throughout 200 years of its history” (p. 3). He found “the notion that this Court overlooked such a significant requirement for two centuries... thoroughly implausible and [one that] has left the Court vulnerable to criticisms of revisionism and diminished legitimacy” (p. 3). He reiterated his view that *Edmunds* “failed to supply a coherent theory to explain how the exclusionary rule should be understood and applied for purposes of state constitutional law” (p. 3) and warned that “new judicial federalism” in Pennsylvania has produced a “perplexing mélange of disparate constitutional principles” and a “vast wasteland of confusing, conflicting, and essentially unintelligible pronouncements” (p. 4). Finally, he argued that by “untethering the exclusionary rule from its federal, deterrence-based rationale” and “expansively construing Article I, Section 8 to provide greater protection than the Fourth Amendment... the new judicial federalism impedes the effective enforcement of criminal laws in a fashion well beyond any impact that the framers might have envisioned” (p. 4).

Constitutional Provisions: “The people shall be secure in their persons, houses, papers and **possessions** from unreasonable searches and seizures, and no warrant to search **any place** or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.” (**Pa. Const. art. I, § 8.**) “The right of the people to be secure in their persons, houses, papers, and **effects**, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” (**U.S. Const. amend. IV.**)