

IN THE UTAH COURT OF APPEALS

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| State of Utah,           | ) | MEMORANDUM DECISION   |
|                          | ) | (Not For Official Publication)  |
| Plaintiff and Appellee,  | ) |   |
|                          | ) | Case No. 20090130-CA  |
| v.                       | ) |   |
|                          | ) | F I L E D   |
| Richard Hill,            | ) | (September 11, 2009)  |
|                          | ) |   |
| Defendant and Appellant. | ) | <span style="border: 1px solid black; padding: 2px;">2009 UT App 254</span> |

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Second District, Ogden Department, 071900843  
The Honorable Michael D. Lyon

Attorneys: Michael D. Bouwhuis, Ogden, for Appellant  
Mark L. Shurtleff and Jeffrey S. Gray, Salt Lake  
City, for Appellee

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Before Judges Bench, Davis, and McHugh.

PER CURIAM:

This matter is before the court on the State's motion for summary reversal. Specifically, the State asserts that new precedent from the United States Supreme Court mandates reversal of Richard Hill's conviction. We agree with the State and reverse.

On April 25, 2007, officers stopped the car Hill was driving in order to arrest a passenger in Hill's car. Subsequent to the arrest of the passenger, police officers searched the vehicle incident to the passenger's arrest. The officers found a substantial quantity of drugs and paraphernalia in the car. As a result, the officers arrested Hill. Hill challenged the search. The district court denied the motion to suppress and concluded that based upon existing law "the officer may search the passenger compartment and any containers within the passenger compartment" following the lawful custodial arrest "and may seize any contraband that may later be readily disposed of." Hill was later convicted of possession of a controlled substance with the intent to distribute.

Recently, the United States Supreme Court issued the decision of Arizona v. Gant. In Gant, the Supreme Court held that, absent particular circumstances not relevant to this case, the precedent relied upon by the district court in denying the motion to suppress "does not authorize a vehicle search incident to a recent occupant's arrest after the arrestee has been secured and cannot access the interior of the vehicle." Arizona v. Gant, 129 S. Ct. 1710, 1714 (2009). We agree with the State that based upon this new case law, the search of Hill's car and his subsequent arrest was not justified.

Accordingly, Hill's conviction is reversed.

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Russell W. Bench, Judge

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge