

## Pursed Purse

By: Monte E. Hester; June 2002

Our Supreme Court, in State v. Kurt L. Jones, Docket No. 70869-0, unanimously held that the search of a passenger's purse is not justified incident to a driver's arrest absent evidence that the passenger's purse was in the immediate control of the driver.

This case contains an outstanding discussion of the standing of the defendant to challenge the search of the passenger's purse, which purse contained a pistol which the driver admitted was his after he was arrested and advised of his Miranda rights.

The defendant was stopped for a traffic violation and taken into custody because of an outstanding warrant. The passenger was told to get out of the car, which she did, taking her purse with her. She was told to put the purse back into the car. The car was then searched incident to the arrest of the driver. The search included going through the purse in which the pistol was found.

Although the Supreme Court reversed the trial court's decision, the content of the Court's discussion does indicate that a search of the purse might well be justified. The search may be justified if it appeared to the police that the purse was in the driver's immediate control or if the search of the purse was proven to be necessary on the basis of concern for the officer's safety. It would be the burden of the State to establish such justifications.

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