No Expectation of Privacy For Those Returning Rental Cars Late - 9th Circuit Ruling

May 6, 2020 - The 9th Circuit Court of Appeals had ruled against a man who tried to have evidence suppressed after a warrantless search of a license plate database allowed law enforcement to pinpoint his location. The man, one Jay Yang of Las Vegas, NV had been photographed stealing mail while driving a rented SUV. But he was more than a week overdue in returning the vehicle and the court ruled that because of that, he had no expectation of privacy.

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Yang had rented a GMC Yukon from a car dealership. The SUV was equipped with GPS tracking as well as a system that would allow the dealer to disable it. When Yang was late returning the vehicle, the dealer attempted to contact him, without any luck. They then attempted to locate the vehicle and disable it, but the systems allowing them to do that had been disabled.

When Yang's mail theft came to the attention of Postal Inspectors, the agent in charge decided to run the Yukon's license plate through a third party database to see if he could locate it. That database contained over 5 billion license plate images at the time of Yang's arrest.

The search was successful in locating the Yukon and it also allowed agents to find Yang himself. Agents were then able to search his home and found some of the stolen mail. That evidence was used to force Yang into a plea deal.

But Yang appealed the search, saying that a recent Supreme Court Case (Carpenter v. United States) made the search of the database illegal without a warrant. A three judge panel of the 9th Circuit disagreed. The bottom line here is that Yang was driving a car belonging to someone else and that he was in breach of the agreement he had made to return the car on time. The company that owned th car had already attempted to locate and disable it, without success. Because of that, he couldn't expect that a search wouldn't be conducted to find the vehicle in question, if only to recover it. The court also noted that the database search was not conducted until eight days after the agreed upon return date for the Yukon.

The ruling is a very interesting read for anyone interested in privacy matters. You can find it here.
by Jim Malmberg
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