

Criminal Law Partner Discusses "In Plain View Search And Seizure" In State v. Gonzales

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In its recent decision, the New Jersey Supreme Court has abandoned a long-standing rule of law in plain view search and seizure cases.

In State v. Gonzales, the court ignored its long-standing reliance on the inadvertence requirement in plain view searches. Those searches arise when the police have no warrant, but are lawfully at a location and make an observation of contraband. Prior to Gonzalez, the observation of the illegal material had to be inadvertent.

In this new case, the police were aware of the nature of the contraband in a vehicle they stopped for motor vehicle observations—therefore, the observation of the heroin on the floor of the stopped car was not truly *inadvertent*. In a clear decision based upon the ends justifying the means, the Court ‘excised’ the inadvertence requirement based, in part, upon a decision by the US Supreme Court. Our Court altered its prior position on inadvertence, declaring that an objective rather than a subjective review of police action better suited review of plain view searches.

This presents an alarming trend in NJ jurisprudence – our Supreme Court had previously championed the right of NJ citizens by providing greater constitutional protections. This case presents an ominous trend.