



Legal Update

April 2020

The Appeals Court finds that a camper affixed to the bed and roof of a pickup truck was a "vehicle" within the meaning of G. L. c. 269, § 10(b), and that the Commonwealth proved that the defendant had control over a spring-loaded knife discovered within the camper's sleeping area.

Commonwealth v. Davenport, 97 Mass. App. Ct. 279 (2020): Detective Lawrence Donovan of the Avon Police Department issued a broadcast for the defendant, John Davenport's vehicle, after he interviewed a woman about an incident involving her and the defendant. Raynham Police found the defendant's vehicle in a Wal-Mart parking lot with a camper attached. Detective Donovan knocked on the door of the camper, and the woman with whom he had previously spoken opened the door and stepped outside. The defendant eventually came out after Detective Donovan knocked on the camper door for twenty to thirty minutes. The detective placed the defendant under arrest. Police secured and locked the pickup truck and camper, and transported them to the Avon police station. After obtaining a search warrant, police recovered from the camper's sleeping area a spring-loaded knife with a four-inch blade that had the defendant's DNA on its handle.

The camper was partly attached with bungee cords and ropes to the bed and roof of the truck. The camper was hooked up to a generator, which was outside and running. It did not have its own driving cab, and there was no access to it from the truck; the only access was through a door in the rear of the camper. Detective Donovan testified that the defendant lived in the camper as well.

The defendant was convicted of Carrying a Dangerous Weapon (a spring-loaded knife) on his person or under his control in a vehicle in violation of G. L. c. 269, § 10(b). The defendant appealed and did not dispute that the knife was a dangerous weapon. However, he argued that the camper was not a vehicle according to the statute and that the knife was not under his control.

Conclusion: The Appeals Court affirmed the defendant's conviction and found (1) that the camper attached to the pickup truck was a vehicle for purposes of G. L. c. 269, § 10(b); and (2) that the defendant exercised control over the knife found in the camper's sleeping area.

To establish a violation of G. L. c. 269, § 10(b), the Commonwealth must prove that a defendant knowingly "carried on his person or under his control in a vehicle" a dangerous weapon. The Appeals Court found that the camper was a vehicle even though it was used as a residence at times. According to Black's Law Dictionary, a vehicle is a "a device, such as a car or sled, for carrying passengers, goods, or equipment; conveyance." *Black's Law Dictionary* 1868 (11th ed. 2019) ("An instrument of transportation or conveyance"; "any conveyance used in transporting passengers or things by land, water, or air"). Here the camper was affixed to the truck and was used as means of transporting people and things and, as such, was a vehicle or at least part of a vehicle. Additionally, a camper that is attached to a motor vehicle is equally capable as a motorized camper of "carrying" -- i.e., "bearing or conveying from one place to another," *American Heritage Dictionary* 243 -- a prohibited weapon. The Appeals Court determined that whether the camper was used as residence had no impact on a § 10(b) violation because the statute, unlike § 10(a), does not have a residence exception. The camper was not used solely as a residence. There was evidence that the defendant drove his truck, with the camper attached, from Avon to Raynham. Although the defendant may have used the camper as a residence at times, he clearly used it as a means of transport.

The Appeals Court also found that whether or not the defendant could access the weapon during transport did not detract from establishing that the weapon was under the defendant's control in the vehicle. *Commonwealth v. Collins*, 11 Mass. App. Ct. 583, 586 (1981) (sufficient evidence to support convictions of unlawful carrying of firearm under G. L. c. 269, § 10[a], where firearms were found in trunk of car). Here, the defendant owned the camper, he was alone inside for twenty to thirty minutes before complying with Detective Donovan's order to leave the camper, the knife was found in the defendant's sleeping quarters, and he was the major contributor to the DNA sample taken from the knife's handle. All of this evidence was sufficient to establish that the defendant had the requisite control over the knife.