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Police Law Bulletin

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UNITED STATES SUPREME COURT

Fourth Amendment Did Not Prohibit Law Enforcement Officer from Conducting Suspicionless Search of Parolee as Permitted Under California Law

Samson v. California, No. 04-9728 (19 June 2006).

California law provides that every prisoner eligible for parole must agree in writing to be subject to search or seizure by a parole officer or other peace officer at any time of day or night, with or without a search warrant and with or without cause. Samson was on parole in California. An officer observed him walking down the street one day, was aware that he was on parole, and believed there to be an outstanding warrant on him. The officer stopped Samson and asked whether he had an outstanding parole warrant. Petitioner responded that he did not and the officer confirmed this fact. Nevertheless, pursuant to the aforementioned California statute, the officer searched Samson and found a bag of methamphetamine in his pocket.

Samson was charged with possession of methamphetamine. He made a motion to suppress the evidence arguing that a suspicionless search, while conducted under the authority of California law, nevertheless violated the Constitution. The trial court denied the motion and Samson was convicted and sentenced to seven years imprisonment. The California Court of Appeals affirmed. The US Supreme Court also affirmed and held that the search was lawful under California law and that such laws, authorizing suspicionless searches of parolees, do not offend the Fourth Amendment. The Court reiterated that whether a search is reasonable or not under the Fourth Amendment is determined by assessing the degree to which the search intrudes upon an individual's privacy against the degree to which it is needed for the promotion of legitimate governmental interests. The Court noted that parolees remain in the legal custody of the Department of Corrections and, as such, have severely diminished privacy expectations. In addition, the State has an overwhelming interest in supervising parolees because they are more likely to commit future criminal offenses and, they have more of an incentive to conceal their criminal activities than the ordinary person because they are aware that they are subject to

supervision and face revocation of probation and possible incarceration, in proceedings in which the trial rights of a jury and proof beyond a reasonable doubt, among other things, do not apply.

Detention of Residents During Execution of a Search Warrant Did Not Violate Residents' Constitutional Rights

Los Angeles County, California, et al. v. Max Rettele et al., No. 06-605 (21 May 2007).

Deputies of the Los Angeles County Sheriff's Department obtained a valid search warrant to search a house for three suspects and evidence of a fraud and identity-theft crime ring. One suspect was known to have registered a 9mm Glock handgun. The deputies were unaware that the suspects being sought had moved out three months earlier. When the deputies searched the house, they found in a bedroom two residents who were of a different race than the suspects. The deputies ordered these residents, who had been sleeping unclothed, out of bed. The residents were held at gunpoint for one to two minutes before being permitted to dress. Within three to four minutes the two residents were seated on the living room couch. By that time, the deputies realized they had made a mistake. They apologized to the residents, thanked them for not becoming upset, and left within five minutes.

The residents brought suit under 42 U.S.C. 1983 accusing the deputies of violating their Fourth Amendment right to be free from unreasonable searches and seizures. The District Court granted summary judgment to all the defendants. However, the Ninth Circuit Court of Appeals reversed, concluding that the deputies violated the Fourth Amendment and that the deputies were not entitled to qualified immunity because a reasonable deputy would have stopped the search upon discovering that the respondents were of a different race than the suspects and because a reasonable deputy would not have ordered respondents from their bed. The United States Supreme Court reversed the Ninth Circuit Court of Appeals.

In addressing the Ninth Circuit's conclusion that the deputies should have immediately ceased their search of the premises "after taking one look at respondents," the United States Supreme Court countered that it "need not pause long [to reject] this unsound proposition." The Court recognized that when the deputies ordered the respondents from their bed, they had no way of knowing whether the African-American suspects they were seeking were elsewhere in the house. Furthermore, the Court rejected the Ninth's Circuit conclusion that the deputies acted unreasonably in ordering the respondents from their bed. The Court noted that when executing a search warrant officers may take reasonable action to secure the premises and to ensure their own safety and the efficacy of the search. The orders by the police to the occupants in this situation were permissible and perhaps necessary to protect the safety of the deputies. Blankets and bedding can conceal a weapon. Furthermore, one of the suspects was known to own a firearm. Finally, the United States Supreme Court found that the length of time the respondents were detained without being allowed to dress was also reasonable under the circumstances. The Court reasoned that the deputies needed a moment to secure the room and to ensure that no other persons were close by that might present a danger. The deputies were not required to turn their backs to allow the respondents to retrieve clothing or to cover themselves with the sheets. The Court cautioned that this is not to say, of course, that the deputies were free to force the respondents to remain motionless and standing for any longer than necessary. Special

circumstances or possibly a prolonged detention might render such a search unreasonable. However, in the present case, the deputies left the home in less than 15 minutes; one respondent was unclothed for no more than two minutes and the other for only slightly more than that; in fact, one respondent testified that once the police were satisfied that no immediate threat was presented "they wanted us to get dressed and they were pressing us really fast to hurry up and get some clothes on."

North Carolina Court of Appeals

Seizure of Cigarette Butt Thrown by Defendant on His Patio Floor During Interview With Two Detectives Violated Defendant's Fourth Amendment Rights

State v. Reed, No. COA06-400 (6 March 2007).

On January 23, 2003, detectives from the Charlotte-Mecklenburg Police Department met with Blake Reed as part of an investigation. A few days later, two detectives went to his apartment to request a DNA sample. Reed initially said that he would provide one, but then reconsidered and requested 24 hours to decide. During this conversation, a young woman entered the apartment so the detectives requested that the interview continue in a more private setting. Reed led the detectives onto a small patio in the back of the apartment. Reed lit a cigarette and after finishing it he flicked the butt at a pile of trash located in the corner of the concrete patio. The butt struck the pile of trash and rolled between the defendant and one of the detectives, who kicked the butt off of the patio into the grassy common area. The detective retrieved the butt after his partner and defendant turned to go back inside the apartment. After testing, the State presented evidence that the DNA sample taken from the cigarette butt matched that taken from a stain found on the alleged victim's shirt.

At trial, defendant moved to suppress the DNA evidence on the grounds that it was the fruit of an unlawful search and seizure. The trial court denied defendant's motion and the defendant was subsequently convicted of first-degree burglary and second-degree sexual offense. Defendant appealed the denial of his motion to suppress.

Defendant's sole argument was that the cigarette butt containing DNA evidence was seized on the basis of a warrantless, non-consensual search of an area in which defendant had a reasonable expectation of privacy. The State argued that the defendant lost his expectation of privacy when the cigarette butt was discarded.

The North Carolina Court of Appeals held that the defendant did not abandon the cigarette butt. The Court noted that the only reason the cigarette ever left the defendant's property was because of the officer's actions; that the area on which it was thrown was clearly within the cartilage of the defendant's home; and that the pile of trash towards which the cigarette butt was thrown had not been placed at its location within the curtilage for collection in the usual and routine manner.