

LAW REVIEW

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By: Jim Porter

ELECTION THOUGHTS; AND SEARCH AND SEIZURE CASE

I feel a need to offer my (unsolicited) thoughts on Tuesday's elections, "inked" last Monday before the votes were in.

Election Thoughts

I assume Barack Obama won and I predict the Democrats will have swept--increasing their numbers in the Senate and House (but hopefully not enough to override a Republican filibuster).

But regardless of who won, my hope is that the country will put its Bush-driven ideological decision-making aside. Think healing and consensus building not righteousness and divisiveness. Internationally try diplomacy rather than bluster.

We all need to step back and reflect. Take a chill pill after this contentious, negative election. Put aside our passions and intolerance. The election is over.

Our country will go on regardless of who is President. In fact, I'm not sure it makes much difference who is running the country—at least as far as our day-to-day lives are concerned. Actually it does make a difference, but life goes on anyway.

Let's celebrate that in the U.S. we have the unbridled right to debate and elect our leaders nationally, statewide and locally. More than ever, they have their work cut out for them. Say nay to the naysayers and work let's collaboratively toward common solutions.

On to Boring Law

Now let's get on with our case of the day. Alma Munoz and Gilbert Prado, methamphetamine users, were staying in room 142 in a Garden Grove motel.

They paid the motel manager for the day's rent but one of their two \$20 bills was counterfeit or so it appeared to the manager.

The motel manager called the police because the \$20 bill seemed "less dense" than a real \$20 bill. The police agreed and went to room 142, knocked on the door, then let themselves in with a key the motel manager had given them.

That was their mistake. They did not have a warrant and their entry was not justified by "exigent circumstances."

Illegal Search

Once they were in the motel room, Munoz and Prado told the police they could look around. Why is it that criminals always tell the police it's o.k. to search when they have drugs on them or in their car or room, or is it just the police version--that they were given permission to search--that gets reported?

Of course, the officers found methamphetamine and glass pipes for smoking. Munoz and Prado were arrested.

Motion to Suppress

The two defendants filed a motion to suppress the evidence stating they had an “expectation of privacy” under the Fourth Amendment. I.e. the police had no right to walk into their room, therefore the seized drugs must be suppressed, not allowed as evidence.

Police Version

The police and district attorney prosecuting the case argued that there was no expectation of privacy because Munoz and Prado had defrauded the motel by using a counterfeit \$20 bill to pay for the room. Also, Munoz and Prado had consented to the search after the officers entered the room.

Court Ruling

The Court of Appeal easily determined that if the officers had no right to enter the room, Munoz and Prado’s consent to search after they were in the room was invalid. The expectation of privacy defense proved more difficult.

The Court “very reluctantly” suppressed the evidence noting that Munoz and Prado had no reason to believe that the suspect \$20 bill was in fact counterfeit, thus it can not be concluded that they intended to defraud the motel. Therefore they had an expectation of privacy in their motel room. Without a warrant the police had to ask permission before entering the room.

The fruits of their search, the drugs, are not admissible. I’m assuming Munoz and Prado walked--to be arrested another day. Frustrating, particularly for the Garden Grove Police Officers. Probably the right decision under the Fourth Amendment.

Jim Porter is an attorney with Porter Simon, with offices in Truckee, South Lake Tahoe, Incline Village and Reno and a licensed California Real Estate Broker. He was the Governor's appointee to the Bipartisan McPherson Commission on political ethics and the California Fair Political Practices Commission. He may be reached at porter@portersimon.com or at the firm's web site www.portersimon.com

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