



DEPARTMENT OF PUBLIC SAFETY
TRAINING ACADEMY

LEGAL BULLETIN NO. 47
May 8, 1981

SEARCH OF "THIRD PARTY" RESIDENCE
WITH ARREST WARRANT

Reference: Keith STEAGALD
v.
United States

U. S. Supreme Court
~~Opinion No. 79-6777~~
451 US 204
April 21, 1981

FACTS:

An informant advised a Drug Enforcement Administration agent in Detroit, Michigan, a man named Ricky LYONS would be at a phone number in Atlanta. There had been a warrant issued for the arrest of LYONS. Agents in Atlanta were advised. The phone number was checked with the telephone company and an address obtained. The address was found to be that of STEAGALD. Two days later, the agents went to the residence and discovered two men standing outside. The agents, with their guns drawn, frisked the two men and demanded identification. They learned one man was STEAGALD and the other was named GAULTNEY.

Other agents approached the house and Mrs. Gaultney answered the door. She advised the agents that she was alone in the house, but they made her place her hands against the wall in a "guarded position" while they searched the house. Ricky LYONS, the subject of the arrest warrant, was not located. However, during the search the agents discovered some drugs. One agent was then sent to get a search warrant. While waiting for him to return, the agents at the scene conducted a second search. When the search warrant arrived, a third search was made. Forty-three pounds of cocaine was seized.

At a subsequent suppression hearing, a Drug Enforcement Administration agent testified there was no reason why he could not have requested a search warrant but he did not do so because he believed the arrest warrant for Ricky LYONS was sufficient to justify the entry and search.

In this case, the Supreme Court said two distinct interests were implicated by the search---LYONS' interest in being free from an unreasonable seizure and STEAGALD's interest in being free from an unreasonable search of his home.

ISSUE:

Absent exigent circumstances, can law enforcement officers legally search for the subject of an arrest warrant in the home of a third party without first obtaining a search warrant?

HELD: No.

REASONING:

1. The search took place in the absence of consent or exigent circumstances.
2. The purpose of a warrant is to allow a neutral judicial officer to assess whether the police have probable cause to make an arrest or conduct a search.
3. To rule to the contrary would mean the police could search all homes of that individual's friends and acquaintances armed solely with an arrest warrant (absent exigent circumstances) for a single person.

NOTES:

In this case, the agents had the information for two days and had ample opportunity to request a search warrant from one of the three on-duty magistrates in the same building.

Insofar as the Fourth Amendment is concerned, the court in this case again stressed that "we see no reason to depart from this settled course when the search of a home is for a person rather than an object".

A search warrant to effect an arrest will be required in only a few situations. An arrest warrant alone will suffice to enter a suspect's own residence to effect his arrest. If probable cause exists, no warrant is required to apprehend a suspected felon in a public place. A warrantless entry of a home (even of a third party) would be justified if the police were in "hot pursuit" of a fugitive. If voluntary consent is obtained from one who has authority, no warrant is required.

For review see Legal Bulletin No. 34 (Payton v. N.Y.) where police made warrantless entry into private residence and seized evidence in "plain view" even though defendant was not on the scene. This evidence was suppressed as the result of illegal entry.

Also see Legal Bulletin No. 33 (Dunaway v. N.Y.) where defendant was illegally seized in violation of the Fourth Amendment and his confession was suppressed because of his illegal seizure even though he waived his Fifth and Sixth Amendment rights (Miranda).