

Recent Case Report

People v. Rodriguez

(2006) 143 Cal.App.4th 1137

ISSUE

Assuming that officers lied about the existence of grounds to make a traffic stop, must evidence be suppressed if it was discovered after the driver had been lawfully arrested?

FACTS

Two Bell Gardens police officers, assigned to the gang and narcotics unit, stopped a car driven by Rodriguez because, as they testified, one of the brake lights was “burnt out.” During the course of the stop, they ran a warrant check and learned that Rodriguez was wanted on a no-bail warrant. So they arrested him and searched his car incident to the arrest. During the search, they found methamphetamine. They arrested Rodriguez on the drug charge but did not cite him for the Vehicle Code violation.

Three days later, Rodriguez’s employer went to the impound yard to pick up the car. At the hearing on Rodriguez’s motion to suppress the drugs, the employer testified “without contradiction” that the car’s brake and tail lights were working properly. Nevertheless, the judge denied the motion without attempting to resolve the conflict because he thought that, even if the officers had lied, their discovery of the arrest warrant would have constituted an independent intervening act that would have sufficiently attenuated the taint.

DISCUSSION

Pursuant to the “fruit of the poisonous tree” rule, evidence that was obtained as the result of an illegal search or seizure may not be suppressed if the prosecution can prove that the link between the misconduct and the evidence was sufficiently weakened or attenuated so that the evidence was no longer “tainted.”¹ In most cases, attenuation results if something happened after the illegal search or seizure, but before the evidence was discovered, that broke, or at least substantially weakened, the chain of causation. Such an event is known as an “independent intervening act.”² And, as the court pointed out, the discovery of an arrest warrant is “clearly a significant intervening circumstance.”

¹ See *Wong Sun v. United States* (1963) 371 U.S. 471, 487-8 [“[The issue] is whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint.”]; *United States v. Crews* (1980) 445 U.S. 463, 471 [the key is whether “the chain of causation proceeding from the unlawful conduct has become so attenuated or has been interrupted by some intervening circumstance so as to remove the ‘taint’ imposed upon that evidence by the original illegality.”].

² See *People v. Sims* (1993) 5 Cal.4th 405, 445 [“The degree of attenuation that suffices to dissipate the taint requires at least an intervening independent act by the defendant or a third party to break the causal chain in such a way that the [evidence] is not in fact obtained by exploitation of

There is, however, another important circumstance in determining whether attenuation occurred—the “purpose and flagrancy” of the officers’ misconduct.³ Specifically, if a court finds that officers deliberately violated the law for the purpose of obtaining evidence against the defendant, it is virtually certain that the evidence will be suppressed regardless of any attenuation. This is not only because such conduct is reprehensible. It is also because it may put the officers in a position of having to lie in court. This cannot, of course, be tolerated because, as the California Supreme Court observed:

Our entire criminal justice system is built around the belief, and necessity, that law enforcement officers will testify truthfully. . . . Deliberate, cynical perjury by law enforcement officials strikes at the very core of our system of law. It manipulates and thereby perverts the entire judicial process.⁴

For these reasons, Court of Appeal sent the case back to the trial court with instructions to determine whether the officers testified truthfully and, if not, to suppress the evidence. POV

the illegality.”]; *People v. Reagan* (1982) 128 Cal.App.3d 92, 96 [“Where an event occurs between the proscribed law enforcement conduct and the proffered evidence which breaks the causal chain linking the illegality and evidence in such a way that the evidence is not in fact obtained by exploitation of that illegality the taint from the evidence is removed.”].

³ See *Kaupp v. Texas* (2003) 538 U.S. 626, 633 [“Relevant considerations include . . . particularly, the purpose and flagrancy of the official misconduct.”]; *Brown v. Illinois* (1975) 422 U.S. 590, 604 [“The illegality here had the quality of purposefulness.”]; *United States v. Leon* (1984) 468 U.S. 897, 911 [“[A]n assessment of the flagrancy of the police misconduct constitutes an important step in the calculus.”].

⁴ *People v. Beardslee* (1991) 53 Cal.3d 68, 110.