

Recent Case Report

People v. Baker

(2008) __ Cal.App.4th __ [2008 WL 2737047]

ISSUE

While conducting a parole search of a vehicle, may officers search a woman's purse if the parolee was a man?

FACTS

During a traffic stop in Kern County, an officer learned that the driver was on parole. Having decided to conduct a parole search of the vehicle, he asked the passenger, Wendy Baker, to exit. When Baker stepped from the car, she left her purse on the floorboard. In the course of the search, the officer searched the purse and found methamphetamine. Baker was arrested for possession.

DISCUSSION

Baker argued that the search of her purse was illegal because it obviously did not belong to the parolee. The court agreed.

California parolees are automatically subject to warrantless searches of their homes and any property under their "control."¹ This means that officers may search property that the parolee controls exclusively or jointly with another person.² Furthermore, unless there is reason to believe otherwise, it is usually reasonable for officers to conclude that a parolee has control over all containers in the rooms and vehicles that are under his sole or joint control.

The problem in *Baker* was that there was, in fact, reason to believe the purse belonged to someone other than the parolee. As noted, the parolee was a man, while it was apparent that the purse belonged to a woman.³ Furthermore, it obviously belonged to Baker because it had been located at her feet. As the court pointed out:

Although the officer testified that he did not know who the purse belonged to when he searched it, there was no reasonable basis to believe the purse belonged to anyone other than the sole female passenger. Baker was sitting in the front passenger seat and the distinctly female purse was located at her feet.

Accordingly, the court ruled the search of the purse was unlawful because "there is nothing to overcome the obvious presumption that the purse belonged to the sole female occupant of the vehicle who was not subject to a parole-condition search." POV

¹ See 15 CA ADC § 2511(b)(4) ["Search. You and your residence and any property under your control may be searched without a warrant at any time by any agent of the Department of Corrections or any law enforcement officer."].

² See *People v. Woods* (1999) 21 Cal.4th 668, 682 ["[O]fficers generally may only search those portions of the residence they reasonably believe the probationer has complete or joint control over."].

³ **NOTE:** The court pointed out that "the record contains a picture of the purse and we can say with certainty the purse is one typically carried by females in this society."