

**Mena v. City of Simi Valley**  
(9<sup>th</sup> Cir. 2000) \_\_ F 3d \_\_

**ISSUES**

Were officers who executed a search warrant entitled to qualified immunity in a civil case where the plaintiffs alleged, (1) the search warrant was overbroad, (2) the search was overbroad, (3) the officers unlawfully detained them, and (4) the officers caused unnecessary damage to the premises?

**FACTS**

Simi Valley police officers developed probable cause to believe Romero and Gonzales took part in a gang-related drive-by shooting, and that Romero was in possession of a handgun used in the shooting. Officers also learned that Romero, and possibly Gonzales, lived at 1363 Patricia Avenue in a so-called "poor house," meaning a single-family house occupied by a large number of people, mostly unrelated.

As it turned out, several residents of the house rented individual rooms adjacent to the living room. To assure privacy, the occupants of these rooms kept their doors shut and, in some cases, padlocked from the outside. Two of the investigating officers had been to the home previously on unrelated matters and were apparently aware that several people did, in fact, live there.

In an affidavit in support of a warrant to search the house, one of the investigating officers stated that "a large number of subjects" lived in the house. He did not, however, explain that he was aware the occupants rented individual rooms, some of which were locked. Based on the affidavit, the magistrate issued a warrant to search, among other things, "all rooms" in the home.

Officers executed the warrant at about 7 a.m. After making entry, they checked each of the rooms adjacent to the living room; if the door was locked, officers broke in. They then secured the premises by handcuffing the occupants and detaining them in the garage for some two to three hours until the search was completed. (The court did not say what, if anything, was found during the search because, in light of the nature of the appeal, it would be irrelevant.)

**DISCUSSION**

Two of the occupants, Iris and Jose Mena, filed a civil rights lawsuit in federal court against the City of Simi Valley and most, if not all, of the officers who took part in the search. The Menas contended the officers violated their civil rights because, (1) the search warrant was overbroad, (2) the search was overbroad, (3) they were unlawfully detained, and (4) the premises were unnecessarily damaged. During pre-trial proceedings, the trial court rejected the officers' contention that they were entitled to qualified immunity. The officers appealed the decision to the Ninth Circuit which ruled as follows.

Under the doctrine of qualified immunity, law enforcement officers cannot be held personally liable for money damages for violating a person's civil rights unless the officers' conduct violated a "clearly established" rule of law. Consequently, in determining whether officers are entitled to qualified immunity the key issue is whether reasonable officers in the same situation would have known their

conduct was in violation of the law. If so, the officers are not entitled to qualified immunity, in which case the matter goes to trial.

### **Overbroad search warrant?**

The Mena.s first allegation was that the search warrant was overbroad. As a general rule, a search warrant will be deemed "overbroad"--and therefore invalid--if the following circumstances existed:

(1) **Multi-unit premises:** The place to be searched was composed of distinctly compartmentalized units under the exclusive control of the individuals who reside or work there; e.g., motels, rooming houses, and office buildings.

(2) **Probable cause limited to single unit:** The warrant authorized a search of the entire premises even though officers had only probable cause to believe the evidence would be found in a specific unit or units.

(3) **Officers. knowledge:** At the time they applied for the warrant the officers knew, or should have known, the warrant authorized a search of distinctly compartmentalized units for which probable cause did not exist.[\[1\]](#)

On the other hand, a warrant is not overbroad if the suspects "are in control of the whole premises, if the dwellings are occupied in common, or if the entire property is suspect."[\[2\]](#)

In *Mena*, it was apparent the residence was, in fact, distinctly compartmentalized, and that probable cause was limited to Romero. s and Gonzales. living spaces and probably the common areas of the house.

As for the third requirement, however, the court ruled there was no indication the officers knew, or should have known, of the unusual living arrangement. Although the court acknowledged that it appeared two of the investigating officers had been to the house on prior occasions, "they were in the house for only a short time." Furthermore, said the court, the officers. awareness that several people lived in the house "does not suggest that the officers knew or should have known that the house was a multi-unit building."

Consequently, the court ruled the officers, at the time they applied for the warrant, could have reasonably believed there was probable cause to search the entire premises and, therefore, the officers were entitled to immunity as to the allegation the warrant was overbroad.

### **Overbroad search?**

The Mena. s claimed that even if the warrant was not overbroad, the officers should have realized upon entering the house that it was a multi-unit residence--as opposed to a residence in which several people lived--and should therefore have limited their search to areas in which probable cause existed. The court agreed, noting that "[w]hen the officers first entered the house, they observed that many of the rooms were padlocked from the outside."

Furthermore, the court pointed out that upon forcing entry into the locked rooms, the officers saw that the rooms were set up as studio apartment type units, with their own refrigerators, cooking supplies, food, televisions, and stereos."[\[3\]](#) When the officers became aware of this living arrangement, said the court, they were required to limit their search to areas in which there was probable cause, such as common areas and rooms occupied by Romero and Gonzales.

The court also rejected the argument that because the shooting under investigation was gang-related, there was probable cause to search all the rooms which may have been occupied by fellow gang members. As the court pointed out, "[T]here is virtually no evidence in the record to show that Romero had access to or was in control of the locked rooms inhabited by the other residents."

Thus, the court ruled the officers were not entitled to qualified immunity as to the allegation that the search was overbroad because "a jury could conclude from these facts that the officers' search beyond Romero's room and common areas [and Gonzales' room if he still lived there] was unreasonable."

### **Unlawful detention?**

The Menas alleged the manner and duration of their detentions also constituted a violation of their civil rights. The officers contended they were entitled to qualified immunity as to this allegation because a reasonable officer could have believed the detentions were "necessary to avoid danger to the officers and residents, reduce the risk of flight, and avoid interference with the search."

The court noted that officers who are executing a warrant to search a residence for contraband may, under the Fourth Amendment, detain the occupants while the search is being conducted.[\[4\]](#) Such a detention must, however, be conducted in a reasonable manner. In determining what constitutes a "reasonable manner," courts may consider such circumstances as the length of the detention, the age and physical condition of the detainee, the manner in which the person was detained, and the officers' knowledge that the detainee was or was not involved in criminal activity.

In applying these circumstances to the detention of Ms. Mena, the court pointed out that she was detained in handcuffs for two to three hours even though there was no indication she "had committed a crime, posed any sort of threat to the officers, or was in any way resisting arrest or attempting to flee." Accordingly, the court ruled the officers were not entitled to qualified immunity on this issue and, therefore, the question of whether the detention was reasonable must be decided by the jury.

### **Damage to the premises**

Finally, the officers contended they were entitled to qualified immunity on the allegation that they conducted the search in an unreasonable manner by "callously and needlessly ransacking [the] home and destroying property." The Menas alleged, among other things, the officers broke two doors that were unlocked, and broke the garage door even though it was open.

The court ruled that this, too, was an issue that must be decided by the jury because a reasonable officer would have known such conduct, if it occurred, was unlawful.

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[1] See *Maryland v. Garrison* (1987) 480 US 79.

[2] See *U.S. v. Alexander* (9<sup>th</sup> Cir. 1985) 761 F.2d 1294, 1301.

[3] ALSO SEE *People v. MacAvoy* (1984) 162 Cal.App.3d 746, 753-5 [search of fraternity house]; *U.S. v. Ayers* (9<sup>th</sup> Cir. 1990) 924 F.2d 1468, 1480 ["A search warrant for the entire premises of a single family residence is valid, notwithstanding the fact that it was issued based on information regarding the alleged illegal activities of one of several occupants of a residence. The most obvious place for the police to search would be the drug dealer's bedroom. Therefore, any other portion of the house would be a more secure hiding place."]. COMPARE *People v. Gorg* (1958) 157 Cal.App.2d 522-3; *People v. Garnett* (1970) 6 Cal.App.3d 280; *Hemler v. Superior Court* (1975) 44 Cal.App.3d 430, 433.

[4] Citing *Michigan v. Summers* (1981) 452 US 692.