

Recent Case Report

Date posted: October 6, 2008

People v. Munoz

(2008) __ Cal.App.4th __ [2008 WL 4380749]

Issue

After paying for a motel room with counterfeit currency, did the occupants have standing to challenge a warrantless entry by officers?

Facts

Garden Grove officers were dispatched to a local motel where the manager told them that one of his guests had just passed a counterfeit \$20 bill. According to the manager, a woman named Alma Munoz had rented a room on a day-to-day basis about six days earlier, and that he had just gone to the room to collect the day's rent of \$45. He said that Munoz paid it with two \$20s and one \$5 but, as he was walking back to the office, he noticed that one of the \$20s appeared to be counterfeit. An officer confirmed the manager's suspicions, although he testified that the bill "did not look obviously counterfeit."

The officers then went to Munoz's room and knocked on the door. They could hear water running inside and "some talking," but no one responded. So, after about two minutes of knocking and announcing, they entered with a passkey. It turned out that Munoz and a man named Gilbert Prado had been showering.

After getting dressed, Munoz said that she had gotten the currency from Prado, and that she didn't notice the counterfeit bill. She and Prado then consented to a search of the room. In the pocket of a pair of sweatpants, the officers found \$210 in cash, mostly \$10s and \$20s. It was apparent that three of the \$20s were counterfeit as they all had the same serial number, which was also the same as the bill that Munoz had given the manager. Consequently, Munoz and Prado were charged with, among other things, possession of counterfeit currency. But the charges were dismissed when their motion to suppress the evidence was granted on grounds that the officers' entry into the room was unlawful.

Discussion

On appeal, prosecutors argued that the motion should have been denied because Munoz, by paying with a counterfeit bill, no longer had a reasonable expectation of privacy in the room. The court disagreed.

It is settled that people who rent motel rooms have the same privacy rights as the occupants of homes. But their expectation of privacy may be lost if, (1) it reasonably appeared that they knew their payment for the room was bogus; and (2) motel management had decided to evict the guest and had taken an affirmative step to do so.¹ Thus, the issue in *Munoz* was whether these two requirements were satisfied.

¹ See *People v. Satz* (1998) 61 Cal.App.4th 322, 326 [Here, the innkeeper properly called upon the police to assist in the eviction.]; *U.S. v. Cunag* (9th Cir. 2004) 386 F.3d 888, 895 ["even if the

ROOM OBTAINED FRAUDULENTLY: The first requirement is that the guest must have known that the innkeeper would not receive payment for the room. In the case of debit and credit cards, this requirement will usually be satisfied if the guest was not authorized to use the card, in which case the card company would not be required to honor it.

For example, in *People v. Satz*² the court ruled that the defendant had obtained a motel room fraudulently because she paid for it with an American Express card that she was not authorized to use; and, when confronted by the manager, she admitted that she had no money to pay for the room. Similarly, in *U.S. v. Cunag*³ the court ruled that Cunag obtained a motel room fraudulently when he paid for it with a MasterCard belonging to a woman who was dead.

But if the guest pays with counterfeit currency, it can be difficult to prove that he knew it was fake, especially if it looked real. Thus, the court in *Munoz* ruled that the defendant's act of making a partial payment with a counterfeit \$20 bill did not, in and of itself, demonstrate that she knew the bill was phony because, as noted, the bill "did not look obviously counterfeit" and, thus, it was reasonably possible that Munoz had passed it innocently. As the court explained, "A motel occupant who unknowingly pays for her lodging with counterfeit money, and without any intention to defraud, does not lose her reasonable expectation of privacy in the room."

EVICTION: Even if the bill was obviously counterfeit, the court noted that the officers' entry might not have been lawful because the motel manager had not taken steps to evict Munoz by, for example, asking the officers to stand by while he ordered her to leave. As the court pointed out, the motel manager's knowledge that he had grounds to evict her "was not the same thing as the motel actually choosing to do so. Even knowing that she had used a counterfeit bill for part of her payment, the motel could also have chosen to let her stay and make other payment arrangements."

Consequently, the court ruled that Munoz and Prado had a reasonable expectation of privacy in the room when the officers entered with a passkey and, therefore, the evidence they subsequently discovered was properly suppressed. POV

occupant of a hotel room has procured that room by fraud, the occupant's protected Fourth Amendment expectation of privacy is not finally extinguished until the hotel justifiably takes affirmative steps to repossess the room"; *U.S. v. Bautista* (9th Cir. 2004) 362 F.3d 584, 590 ["[U]nless his occupancy had been lawfully terminated when the police conducted their search, Bautista retained a reasonable expectation of privacy in the room. The critical determination is whether or not management had justifiably terminated Bautista's control of the room through private acts of dominion."]; *U.S. v. Allen* (6th Cir. 1997 F.3d 695, 699 ["Upon learning that Allen was keeping contraband within the motel, the motel manager locked Allen out of his room. With this action, the motel manager divested Allen of his status as an occupant of the room, and concomitantly terminated his privacy interest in its contents."]; *U.S. v. Dorais* (9th Cir. 2001) 241 F.3d 1224, 1228 ["[M]ere expiration of the rental period, in the absence of affirmative acts of repossession by the lessor, does not automatically end a lessee's expectation of privacy."].

² (1998) 61 Cal.App.4th 322.

³ (9th Cir. 2004) 386 F.3d 888.