

Recent Case Report

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People v. Rogers

(2009) __ Cal.4th __ [2009 WL 1911011]

Issue

Did exigent circumstances justify an entry by officers into a murder suspect's storage room?

Facts

A woman notified San Diego police that a friend named Beatrice had been missing under suspicious circumstances. The woman explained that Beatrice was living with Ramon Rogers in an apartment complex in San Diego that he managed, and that Beatrice and Rogers had a five-year old daughter. But even though Beatrice had been missing for three weeks, Rogers was refusing to file a missing person's report. This was especially suspicious because she had heard him threaten to lock Beatrice inside a storage room located in the basement of the apartment building. A missing person investigator, Det. Richard Carlson, phoned Rogers who claimed that Beatrice had been missing only a week or so, at which point Rogers said he "had to go" and quickly hung up.

Later that day, Carlson and uniformed officers drove to the apartment but Rogers wasn't there. Carlson then spoke with a tenant who said that she had not seen Beatrice for several weeks, and she confirmed that Rogers has a storage room in the basement. Just then, Rogers arrived. Carlson asked him how long Beatrice had been missing and Rogers said "a week and a half," adding that he thought she had gone to Mexico "with someone." Carlson told Rogers that he knew about his threat to lock Beatrice in the storage room, at which point Rogers' neck "began to throb." Having noticed that Rogers had not denied making the threat, Carlson asked if he could look in the storage room, just to confirm that she was not being held there. Rogers said no.

By now, Carlson was "very concerned" about Beatrice's welfare and was "feeling more and more convinced" that she was confined in the storage area. He told Rogers that he could not understand his refusal to permit a welfare check on his child's mother, but Rogers remained firm that he would not permit Carlson to enter the room. So Carlson broke in.

As he entered, he saw a black nylon rope on the floor, and he noticed that it was tied in a loop "as if to bind someone's wrist and ankles." He then found some luggage with a tag bearing Beatrice's name. Inside the luggage were clothing and toiletries which was suspicious because, as he testified, these were things "that someone would not be likely to leave behind if going on a trip." Next, Carlson found a large piece of cardboard with an apparent blood stain two feet in diameter. Another suspected blood stain was found on a piece of wood.

Having concluded that the storage room was a crime scene, Carlson radioed for homicide detectives and obtained a telephonic warrant to search the premises. When the warrant was issued, officers searched the storage room and found a bucket containing ten fingers. Elsewhere, they found flex cuffs, a saw, a claw hammer, Playtex gloves, a jaw

bone, teeth, and a butcher knife covered in blood. Forensics later determined that the body parts and blood were from Beatrice.

Rogers was arrested and, as the investigation continued, he was linked to two other suspicious disappearances. He was charged with murdering all three people and, at his trial, the evidence from the storage room was used against him. He was convicted and sentenced to death.

Discussion

On appeal to the California Supreme Court, Rogers contended that Carlson's warrantless entry into the storage room was illegal, and thus the evidence discovered in the room should have been suppressed. The People argued that the entry and search fell within the exigent circumstances exception to the warrant requirement. The court agreed.

At the outset, it pointed out that it had previously ruled that the circumstances surrounding a missing person report could constitute exigent circumstances if there was reason to believe the person was in danger and was presently located in the place that was searched.¹ But Rogers argued there were no such circumstances here, noting the absence of "obvious signs of an emergency, such as moans, groans, or chemical smells emanating from the storage rooms." Furthermore, he said the officers should have known that if Beatrice *had* been the victim of foul play, she was probably dead because she had been missing for weeks.

The court ruled, however, that the officers were not *required* to draw such a conclusion under the circumstances. Said the court, "[T]he length of time [Beatrice] had been reported as missing, i.e., three weeks instead of only hours or days, did not negate the emergency nature of the situation in light of the other circumstances known to Carlson." Those circumstances included the "absence of any information suggesting that [Beatrice] was dead, [Rogers'] noticeable lack of concern over the whereabouts of his child's mother" and his "physical reaction" when Carlson mentioned his threat to lock Beatrice in the storage room.

Finally, Rogers argued that Carlson, himself, apparently did not believe that exigent circumstances existed because, instead of going immediately to the house after receiving the report, he tended to some other matters. The court responded that "it makes no difference that Carlson could perhaps have acted even more quickly in trying to find [Beatrice]" because "the relevant inquiry remains whether, in light of all of the circumstances, there was an objectively urgent need to justify a warrantless entry."

Consequently, the court ruled that the search was lawful, and it affirmed Rogers' death sentence.

Comment

A few days before deciding *Rogers*, the California Supreme Court issued an opinion in *People v. Farley*.² Farley had been stalking a co-worker at Electromagnetic Systems Laboratory (ESL) in Sunnyvale. On February 16, 1988, he walked into the office with a shotgun in his hands, and with rifles and bandoliers of ammunition strapped to his body. He then opened fire, killing seven people and wounding four others.

There were only two police-related issues on appeal. First, the court summarily ruled that these circumstances constituted probable cause for a warrant to search Farley's home

¹ Citing *People v. Wharton* (1991) 53 Cal.3d 522; *People v. Lucero* (1988) 44 Cal.3d 1006.

² (2009) __ Cal.4th __ [2009 WL 1886072].

the next day for, among other things, body armor, ammunition, photographs of the woman Farley had been stalking, and documents to or from the woman or ESL. The court also ruled that these descriptions were “sufficiently definite to allow the officer conducting the search to identify the property to be seized, and to prevent a wide-ranging exploratory search.”

Second, Farley argued that a subsequent warrant to search ESL personnel files for “any and all documents and correspondence relating to [Farley]” was insufficiently particular. Although the description was broad, the court noted, “In a complex case resting upon the piecing together of many bits of evidence, the warrant properly may be more generalized than would be the case in a more simplified case resting upon more direct evidence.”³ POV

³ ALSO SEE *Andresen v. Maryland* (1976) 427 U.S. 463, 480, fn10 [“The complexity of an illegal scheme may not be used as a shield to avoid detection when the State has demonstrated probable cause to believe that a crime has been committed and probable cause to believe that evidence of this crime is in the suspect’s possession.”]; *Kitty’s East v. U.S.* (10th Cir. 1990) 905 F.2d 1367, 1374 [“Evidence of conspiracy is often hidden in the day-to-day business transactions among the involved entities”].