

## **People v. Willis**

(June 3, 2002) \_\_\_ Cal.4<sup>th</sup> \_\_\_

### **ISSUE**

Officers search a suspect's house based on erroneous information from a parole officer that the suspect was on parole with a search condition. Does the Good Faith Rule apply?

### **FACTS**

Bakersfield police received a tip that Willis might be dealing drugs out of his motel room. After checking a departmental "parole book" that listed Willis as a parolee, an officer sought confirmation from a parole agent. It appears, however, the agent merely confirmed that Willis's name was in the parole book. The agent then authorized a parole search of Willis's motel room.

Accompanied by the parole agent, officers went to Willis's room and told him they were going to conduct a parole search. When Willis showed them a California Department of Corrections (CDC) form that said he had been discharged from parole nine months earlier, the parole agent left to try to confirm this.

Meanwhile, the officers observed a hypodermic syringe in plain view and concluded that a woman in the room appeared to be under the influence of drugs. They were also informed by Willis that there was methamphetamine inside a briefcase in the room.

Based on these developments, an officer told Willis that, regardless of whether he was on parole, he believed he had probable cause for a search warrant, which he would seek if Willis refused to consent. Willis consented. When officers found drugs and paraphernalia, they arrested Willis for possession for sale.

It turned out Willis had been discharged from parole nine months earlier.

### **DISCUSSION**

Although Willis consented, the search was clearly illegal because the consent was given while officers were in his motel room unlawfully. The People argued, however, that the evidence should not be suppressed citing the Good Faith Rule. Under Good Faith, evidence obtained as the result of an illegal entry or search will not be suppressed if:

- (1) Officers entered or searched in reasonable reliance on information that their action was authorized by statute or court order, such as a search or arrest warrant, or a probation or parole search condition.
- (2) Although the information was erroneous or the statute or court order was declared invalid, the error or invalidity resulted from actions of court or legislative personnel—not employees of law enforcement agencies.<sup>1</sup>

As noted, the entry into Willis's motel room was based on erroneous information that Willis was on parole with a search clause. Although the record was unclear as to whether the error was caused by the parole officer or a CDC data entry clerk, the court ruled it didn't matter—both are sufficiently connected to law enforcement to prevent application of the Good Faith Rule.

As for parole officers, they are "peace officers" by statute.<sup>2</sup> And CDC data entry clerks are, said to the court, "adjuncts to law enforcement." Consequently, the Good Faith Rule did not apply the evidence was suppressed.<sup>3</sup>

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<sup>1</sup> See *United States v. Leon* (1984) 468 US 897, 919; *Arizona v. Evans* (1995) 514 US 1, 3-4; *People v. Downing* (1995) 33 Cal.App.4<sup>th</sup> 1641, 1655; *People v. Ivey* (1991) 228 Cal.App.3d 1423.

<sup>2</sup> See Penal Code § 830.5.

<sup>3</sup> **NOTE:** Although the court said it was "significant" that the parole officer actually participated in the search, it is doubtful that active participation was essential to a finding that the parole officer was a law enforcement officer inasmuch as the court also ruled the CDC data entry clerk (who did not participate in the search) was an adjunct to law enforcement.