

People v. Amador
(October 16, 2000) __ Cal.4th __

ISSUE

Under what circumstances will a search of a home be upheld if the search was based on a warrant that contained an erroneous address?

FACTS

Officers in Brea obtained information from a reliable informant that contraband--presumably drugs--would be found inside a certain house. In order to determine the address of the house, two officers accompanied by the informant got into an unmarked car and, following the informant's directions, drove to the area of the residence. Because the officers wanted to make sure none of the occupants of the house saw the informant as they drove by, they decided not to stop or even slow down. Instead, while one officer drove, his partner jotted down the address and a brief description of the home identified by the informant.

The officer who was driving the car wrote an affidavit in support of a warrant to search the house. As he was writing the affidavit, he relied on the address and description written down by his partner. As it turned out, his partner had made two mistakes:

- (1) The address was wrong: The actual address of the house was 10811 Leland; the address his partner had written down, and which appeared on the search warrant, was 10817 Leland.
- (2) There was an error in the description of the house: The house was described as a two-story residence when it was, in fact, a single-story residence. It appears that the other elements of the description were correct.

Although the warrant authorized a search of a two-story home at 10817 Leland, the affiant directed the search team to enter and search the house pointed out by the informant--10811 Leland. (It appears the affiant did not realize the discrepancy in the house numbers until after the search.) During the search, officers found methamphetamine and about 1000 blank credit cards. The occupant of the house, Luis Amador, was arrested.

DISCUSSION

Amador contended the mistake as to the address of his home rendered the warrant invalid. The California Supreme Court disagreed.

The court began by noting that a search warrant must describe the place to be searched with "reasonable particularity." [1] Although "complete precision" is not required, the court explained the description must be sufficiently detailed so as to permit officers to identify the location with "reasonable effort." [2] When the place to be searched is a home or business, it is usually sufficient to describe the location by street number, street name, and city. [3]

Officers must, of course, be very careful to make sure the address on the warrant is the same as the address of the residence for which probable cause to search exists. But if an error is made, the court ruled search may nevertheless be upheld if two requirements are met: (1) the "right" house was searched, and (2) the error did not create a reasonable probability that another home would be searched by mistake. In the words of the court, "When the warrant contains an inaccurate description, the test for determining the sufficiency of the description of the place to be searched is whether the place to be searched is described with sufficient particularity as to enable the executing officer to locate and identify the premises with reasonable effort, and whether there is any reasonable probability that another premise might be mistakenly searched.[4]

Applying this test to the facts of the case, the court ruled the search was lawful. This was mainly because the affiant knew exactly what home the informant pointed out, and he was present when the entry was made to ensure the "right" house was searched. Said the court, "We believe that a court may properly consider that the risk of searching the wrong house is slight when the affiant, who knew exactly what house the magistrate authorized to be searched, also executing the warrant." The court went on to say, "We caution, however, that the executing officer's personal knowledge may not cure all deficiencies or completely substitute for a description in the warrant. It is but a factor to consider."

[1] See Penal Code §§ 1525, 1529; *Maryland v. Garrison* (1987) 480 US 79, 84; *People v. Amador* (2000) __ Cal.4th __; *People v. Estrada* (1965) 234 Cal.App.2d 136, 145-6.

[2] See *People v. Estrada* (1965) 234 Cal.App.2d 136, 146; *People v. Dumas* (1973) 9 Cal.3d 871, 880; *People v. Weagley* (1990) 218 Cal.App.3d 569, 572; *People v. Grossman* (1971) 19 Cal.App.3d 8, 11.

[3] See *People v. Superior Court (Fish)* (1980) 101 Cal.App.3d 218, 225; *People v. McNabb* (1991) 228 Cal.App.3d 462, 469.

[4] Citing *U.S. v. Gitcho* (8th Cir. 1979) 601 F.2d 369, 371. NOTE: The court added, "A defendant claiming that the warrant or supporting affidavit is inaccurate or incomplete bears the burden of alleging and then proving the errors or omissions."