

Recent Case Report

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People v. Carrington

(2009) __ Cal.4th __ [2009 WL 2216081]

Issues

(1) Did officers have probable cause to search the home of a multiple-murder suspect? (2) When executing a warrant to search the suspect's home, could officers permit investigators from an outside agency to participate? (3) Were the suspect's confessions voluntary?

Facts

In early January of 1992, Celeste Carrington embarked on a crime spree along the San Francisco Peninsula, burglarizing businesses in which she had previously worked as a janitor. Using keys she had stolen or duplicated, she started out in Los Altos where, in one night, she burglarized Blackard Designs and NDN Enterprises and stole checks from both. About a week later, she burglarized a Dodge dealership in Redwood City where she stole a .357 magnum revolver. A few days later, she took the gun with her when she broke into an office building in San Carlos. When she was caught in the act by a janitor, Victor Esparza, she shot and killed him.

The third and fourth burglaries occurred in March. In the third one one, she broke into an office building in Palo Alto. But when she entered a copy room, she encountered an employee named Caroline Gleason. Carrington shot and killed her. Five days later, she broke into a medical building in Redwood City where, once again, she was surprised by an employee who was working late. This time it was a doctor. She shot him and ran, but he was only wounded.

Just a few hours before that, a man named Christopher Mladineo was arrested after he tried to cash one of the checks stolen from Blackard Designs. Mladineo told officers that he got the check from Carrington. At the officers' request, Mladineo made a recorded phone call to Carrington during which she admitted stealing the check.

The officers who were investigating these crimes had formed a task force, and they naturally suspected that Carrington had committed all of them. But they figured they only had probable cause on the Los Altos burglaries. This was enough, however, to obtain a warrant to search her home in East Palo Alto for, among other things, stolen keys and checks.

The warrant was executed on March 20th by officers with the Los Altos and Palo Alto police departments. Carrington was arrested after they arrived, and she was transported to the Redwood City police station. The search of the house began with a cursory inspection of the premises, during which officers saw evidence in plain view linking Carrington to the Gleason murder in Palo Alto; specifically, Gleason's pager and a key to the building in which she worked. At that point, the officers "suspended" the search and secured the premises while the Palo Alto investigators obtained a warrant to search for evidence in their case. During the subsequent search they discovered the murder weapon,

Gleason's purse, a piece of paper with Gleason's PIN written on it, and a drug kit taken from the doctor's office in Redwood City.

Back at the Redwood City police station, officers from Palo Alto and Redwood City began interrogating Carrington and, after obtaining a *Miranda* waiver, confronted her with the evidence that had been found in her home. She confessed to killing Gleason and, a few hours later, she confessed to killing Esparza and shooting the doctor.

Based on the evidence obtained in her home and her confessions, Carrington was convicted on all counts and sentenced to death.

Discussion

On appeal to the California Supreme Court, Carrington argued that her confessions and the evidence in her home should have been suppressed. As we will discuss later, she contended that her confessions should have been suppressed because they were involuntary. She attacked the admissibility of the physical evidence in her home on grounds that the officers did not have probable cause for the first warrant, that the second warrant was invalid because it was based on evidence obtained during the execution of the first one, and that the first warrant was merely a pretext to look for evidence in the Palo Alto murder.

PROBABLE CAUSE: Although it was apparent that there was probable cause to believe that Carrington committed the Blackard burglary, Carrington argued that probable cause to search her home was lacking because there was insufficient reason to believe that she had actually taken the stolen checks to her home. It is settled, however, that probable cause to search a certain place may be based on reasonable inferences as to where the evidence is probably located. And the most common inference is that the fruits and instrumentalities of a crime will be found in the perpetrator's home. As the court observed in *People v. Miller*, "A number of California cases have recognized that from the nature of the crimes and the items sought, a magistrate can reasonably conclude that a suspect's residence is a logical place to look for specific incriminating items."¹ Thus, the court ruled that Carrington's home was the "most likely place" to find the stolen checks.

Carrington also claimed that it was unreasonable to believe that the checks were still located at her house because of the time lapse—two months—between the Los Altos burglaries and the execution of the warrant. But the officer who wrote the search warrant had anticipated that argument, so he wrote in the affidavit that, based on his training and experience, "subjects who steal checks with the intent to commit forgeries will maintain possession of those stolen checks until they can be cashed." The court ruled this was a reasonable conclusion, noting that the checks "still could be forged and cashed."

EXECUTION OF THE SEARCH WARRANT: Carrington also claimed that the warrant to search her home for evidence of the Los Altos burglaries should be invalidated because the presence of the Palo Alto officers demonstrated it was merely a pretext to look for evidence of the murder of Caroline Gleason in Palo Alto. But, as the court pointed out,

¹ (1978) 85 CA3 194, 204. ALSO SEE *People v. Johnson* (1971) 21 Cal.App.3d 235, 245 ["[T]he circumstances of an arrest often times can, without more, support a reasonable finding by the magistrate that the arrestee's home is a logical place to be searched for specific incriminating material."]; *People v. Koch* (1989) 209 Cal.App.3d 770, 779 ["It is settled under both California and federal law that the total circumstances surrounding an arrest or other criminal conduct can, without more, support a magistrate's probable cause finding that the culprit's home is a logical place to search for specific contraband."].

officers from outside agencies may assist in any warranted search—even if they are interested in finding evidence of a crime for which probable cause does not exist.² As the court explained, “Officers from another jurisdiction may accompany officers conducting a search pursuant to a warrant without tainting the evidence (pertaining to crimes that are the subject of their own investigation) uncovered in the process, even when the officers lack probable cause to support issuance of their own search warrant.”

Such a search may, however, become unlawful if the officers from the outside agency searched places or things in which the listed evidence could not have been found. But this was not a problem here because, as the court pointed out, the Palo Alto officers “did not exceed the scope of the search authorized by the warrant” and had, in fact, “observed Gleason’s property in plain view.”

CARRINGTON’S CONFESSIONS: Carrington contended that her confessions should have been suppressed because they were involuntary. As we discussed in the article entitled “Interrogation” in the Summer 2009 *Point of View*, a statement will be suppressed if it was involuntary, and that a statement will ordinarily be deemed involuntary if it was obtained by means of threats or promises pertaining to sentencing.³

As noted, Carrington was transported to the Redwood City police station shortly after her arrest. She waived her *Miranda* rights at about 5:15 P.M., at which point a Palo Alto investigator told her that, although she was arrested for the Los Altos burglaries, he wanted to talk to her about the murder of Caroline Gleason. To encourage her to talk about it, he suggested that the murder might have been an accident or that there might have been other mitigating circumstances. Said the officer, “What if [Caroline] scared you? She confronted you. Or maybe there was someone else with you.”

Carrington argued that these comments rendered her subsequent confession involuntary because they constituted a implied promise that she would receive lenient treatment if she admitted that the shooting was accidental or that an accomplice was the shooter. The courts have consistently ruled, however, that officers may point out to suspects that the punishment for their crime may depend on the role they played in its commission and their state of mind.⁴ Although such a comment carries an implication that the suspects might be better off if they confessed and explained any mitigating circumstances, such an appeal is not objectionable so long as officers did not promise anything specific. Thus, the court ruled the detective’s comments were proper because he

² See Pen. Code § 1530.2; *Horton v. California* (1990) 496 U.S. 128, 138 [“The fact that an officer is interested in an item of evidence and fully expects to find it in the course of a search should not invalidate its seizure if the search is confined in area and duration by the terms of the warrant”]. *People v. Williams* (1988) 198 Cal.App.3d 873, 886 [“[T]he fact an officer may have knowledge of possible criminal activity of the suspect, not necessarily connected with the criminal activity which is the subject of the warrant, should not necessarily impugn the integrity of his search pursuant to a valid warrant.”].

³ See *Culombe v. Connecticut* (1961) 367 U.S. 568, 576 [coercion acts as a “suction process” that has “drained [his] capacity for freedom of choice”]; *Arizona v. Fulminante* (1991) 499 U.S. 279, 287 [“[C]oercion can be mental as well as physical, and the blood of the accused is not the only hallmark of an unconstitutional inquisition.”].

⁴ See *People v. Hill* (1967) 66 Cal.2d 536, 549 [“When the benefit pointed out by the police to a suspect is merely that which flows naturally from a truthful and honest course of conduct, we can perceive nothing improper in such police activity.”].

“merely suggested possible explanations of the events and offered defendant an opportunity to provide the details of the crime.”

Shortly after Carrington confessed to the Palo Alto crimes, she was questioned by detectives from Redwood City and San Carlos. Although she immediately confessed to shooting the doctor, she continued to deny killing Victor Esparza even though the officers informed her that Gleason and Esparza were shot by the same gun. As the interview progressed, one of the officers told Carrington that he wanted to be able to tell the district attorney that she had “helped and assisted” the officers in solving all the crimes she committed. She confessed shortly thereafter.

On appeal, she argued that the officer’s comment rendered her confession involuntary because it constituted an implied promise of leniency. It is settled, however, that an officer’s promise to notify prosecutors or the judge of the suspect’s truthfulness will not render a subsequent statement involuntary so long as the officer did not indicate that the prosecutor or judge would do something specific in return.⁵ And that was exactly what happened here. As the court observed, “The interviewing officers did not suggest they could influence the decisions of the district attorney, but simply informed defendant that full cooperation might be beneficial in some unspecified way.”

Finally, Carrington argued that her confession to murdering Victor Esparza was involuntary because it occurred toward the end of an eight-hour interrogation. It is true that a lengthy interview can wear down a suspect physically and mentally; and, therefore, it is a relevant circumstance in determining whether an interview was coercive. Still, it is seldom a significant factor if the suspect was not particularly vulnerable, and if he was given recesses or breaks when requested or when reasonably necessary.⁶ Thus, the court examined the record and found that Carrington “appeared lucid and aware throughout the entire interview session and never asked the police officers to terminate the interview. Defendant spoke with confidence, and her answers were coherent. Moreover, the police repeatedly offered defendant food and beverages, provided her with four separate breaks, and allowed her to meet privately with her partner, Jackie.”

For these reasons, the court affirmed Carrington’s convictions and upheld her death sentence. POV

⁵ See *People v. Hurd* (1998) 62 Cal.App.4th 1084, 1091 [“Because none of the detectives’ statements indicated that the district attorney would act favorably in specific ways if appellant cooperated, they did not constitute impermissible promises of favorable action.”]; *People v. Groody* (1983) 140 Cal.App.3d 355, 359 [“[The detective’s] promise to talk to the district attorney about ‘special consideration’ for appellant, and his statement that one such consideration might be for the district attorney to charge only one burglary, was no more than the pointing out of benefits which might result naturally from a truthful and honest course of conduct. [The detective] expressly informed appellant that he could make no guarantees of leniency.”].

⁶ See *People v. Rundle* (2008) 43 Cal.4th 76, 123 [“series of relatively short interviews”; no evidence that officers “exploited the slowly mounting fatigue resulting from prolonged questioning”]; *People v. Hill* (1992) 3 Cal.4th 959, 981 [“The 12-hour period was not one of continuous interrogation. The actual interrogation, which was divided into five sessions, comprised only about eight hours. The breaks between sessions were not of insignificant duration.”]; *People v. Jablonski* (2006) 37 Cal.4th 774, 815 [“[T]he interrogation was spread over a four-hour period from midmorning to midafternoon with a refreshment break and a lunch break.”].