

Recent Case Report

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People v. Superior Court (Chapman)

(2012) 204 Cal.App.4th 1004

Issue

Having secured a residence in which a man had been shot and killed, were officers required to obtain a search warrant before reentering the house to seize evidence that had been in plain view?

Facts

At about 5 P.M., LAPD officers were dispatched to a report of shots fired inside a home in West Los Angeles. When they arrived, several people were outside “yelling that there was somebody shooting inside the house.” The officers ordered everyone in the house to exit, at which point Carl Chapman and Raquel Perry stepped outside. Perry was hysterical, screaming “Help us, he shot him, he shot him” (pointing at Chapman). Chapman told the officers “Just help him. Help him.”

After pat searching Chapman and finding a gun, officers entered the residence and conducted a sweep, looking for victims and other suspects. The only person on the premises was Chapman’s son Brian whose body was on the floor near the kitchen. He had been shot and was pronounced dead by paramedics at 5:22 P.M. During the sweep, officers also saw the following in plain view: shell casings near the body, bullet holes in the walls, and blood. The following then occurred:

- 5:30 P.M.: Chapman was arrested and transported to the Robbery-Homicide Division for questioning.
- 5:45 P.M.: Two detectives arrived and were briefed on what had happened. They entered the house and saw a handgun about two feet from the body and strike marks on the wall or refrigerator.
- 6:50 P.M.: A photographer arrived and took photos of the scene.
- 7:20 P.M. – 10:00 P.M.: The scene was processed by criminalists.
- 7:30 P.M.: A third detective (who had interrogated Chapman at the police station and obtained a confession) arrived on the scene, entered the house and observed bullet holes, blood, and other things in plain view. He then left.
- 12:30 A.M.: The third detective returned to the house and found a bullet fragment inside the refrigerator.
- 12:35 A.M.: A coroner’s investigator arrived. Under the body he found a shell casing and noticed a depression in the floor from a possible bullet strike.

Chapman was charged with murder. Before trial, he filed a motion to suppress all the evidence and observations of evidence discovered in the house after his son had been pronounced dead and the scene secured; i.e., after 5:30 P.M. The trial judge granted the motion, ordering the suppression of the observations by the detectives, the photographer and criminalists, but not the coroner. Prosecutors appealed.

Discussion

Officers may, of course, enter a residence without a warrant if they reasonably believed there was someone on the premises who needed immediate aid.¹ Thus, there was no dispute that the officers' initial entry into the house was lawful and that their observations of the body and various other things in plain view were admissible. Instead, the issue was whether the observations by the detectives who entered after the scene had been secured were admissible. Chapman argued they were not, claiming the detectives could not reenter the premises or seize evidence unless they had obtained a search warrant. And, as the Court of Appeal explained, the trial judge agreed with this argument:

The trial court found the emergency ended before the "second wave" entered the house. Chapman was arrested and the premises were secured, said the court.

The second wave of officers was designed to follow up and not deal with the exigent circumstances. Rather, their purpose was to investigate and determine if there was a crime and who was involved.

The trial court's ruling was, however, erroneous because it was contrary to another well-settled rule: Officers who have lawfully entered a residence on the basis of exigent circumstances do not need a warrant to reenter the premises after the emergency had been defused if (1) their objective was to process or seize evidence that was in plain view during the initial entry; (2), due to exigent circumstances, it was impossible or impractical for the officers to immediately seize or process the evidence; and (3) the reentry was made before officers had surrendered control of the premises.²

And that was precisely what happened here. "[W]e are presented," said the Court of Appeal, "with an uninterrupted police presence in the residence and a close-in-time successive search of areas already validly searched in order to begin processing and collecting evidence observed in plain view." The court added that "[r]equiring the first wave responders to seize evidence found in plain view during their search would have hampered their primary duty and could have made what appeared to be a dangerous situation even more dangerous."

Accordingly, the court ruled that the observations of the detectives, photographer, and criminalists were admissible with one exception: the observation by the third detective of a bullet fragment in the closed refrigerator was unlawful because the fragment was not in plain view.³ POV

¹ See *Mincey v. Arizona* (1978) 437 U.S. 385, 392; *Arizona v. Hicks* (1987) 480 U.S. 321, 325.

² See *People v. McDowell* (1988) 46 Cal.3d 551; *People v. Justin* (1983) 140 Cal.App.3d 729, 736; *People v. Bradley* (1982) 132 Cal.App.3d 737, 746.

³ **NOTE:** The court made two other rulings: (1) Chapman had effectively consented to the initial entry into the premises, and (2) the bullet casing and depression under the victim's body was also admissible under the inevitable discovery rule. Said the court, "Because there was a dead body in Chapman's residence, it is reasonable to expect the coroner would have been notified of the death, proceeded to the residence, removed the body, found the casing and depression, and then notified police according to law." Citing Gov. Code §§ 27491.1, 27491.2.