

Recent Case Report

People v. Medina

(2007) 158 Cal.App.4th 1571

ISSUE

Can officers conduct a probation search even though they have no reason to believe that the probationer is engaging in criminal activity?

FACTS

A Bakersfield police officer noticed that the car he was following had an inoperable taillight, so he signaled the driver to stop. The driver, Medina, happened to be in front of his home, so he pulled into the driveway and stopped. During the course of the stop, the officer learned that Medina was on probation with a search condition. So he searched Medina's car but found nothing. He then decided to search Medina's home. He rang the doorbell and, after explaining the situation to Medina's father, searched Medina's bedroom. On a dresser, he found a small amount of methamphetamine.

Medina was subsequently charged with possession of methamphetamine, but a superior court judge suppressed the evidence and dismissed the charge. According to the judge, the search was unlawful because "there existed no facts which would suggest a search was necessary or reasonable."

DISCUSSION

As this case illustrates, there is still some uncertainty as to whether officers may conduct probation searches of people, places, and things if they have no reason to believe the search will uncover evidence of a crime. This uncertainty resulted mainly from a series of cases in which the Ninth Circuit ruled that probation searches are permitted only if, (1) officers have reasonable suspicion to believe that the probationer possesses drugs or other evidence of a crime; and (2) the search was conducted for a rehabilitative (not investigative) purpose. As for the second requirement, a search would be permitted if the officers' objective was to make sure the probationer was complying with the terms of probation, but it would not be permitted if their objective was to locate evidence of a crime.¹

¹ See, for example, *U.S. v. Knights* (9th Cir.2000) 219 F.3d 1138, 1143 ["Detective Hancock, and his cohorts, were not a bit interested in Knights' rehabilitation. They were interested in investigating and ending the string of crimes of which Knights was thought to be the perpetrator."] [overruled in *United States v. Knights* (2001) 534 U.S. 112]; *U.S. v. Ooley* (9th Cir.1997) 116 F.3d 370, 372 ["Unlike an investigation search, a probation search should advance the goals of probation, the overriding aim of which is to give the probationer a chance to further and to demonstrate his rehabilitation while serving a part of his sentence outside the prison walls."]; *U.S.*

The United States Supreme Court contributed to this uncertainty in *U.S. v. Knights* when it expressly refused to decide whether probation searches can be conducted in the absence of reasonable suspicion.² Although the Court subsequently ruled in *Samson v. California*³ that officers do not need reasonable suspicion to conduct *parole* searches, the question remained whether the Court's reasoning applied to probation searches.

Although there might be some uncertainty at the federal level, the law in California is quite clear. First, the California Supreme Court has ruled that, under the Fourth Amendment, officers do not need reasonable suspicion to conduct probation searches.⁴ In fact, officers may conduct the search just to make sure that the probationer does not possess drugs, weapons, or other evidence of a crime. As the court observed in *Medina*, “[U]nder California law, a search conducted pursuant to a known probation search condition, even if conducted without reasonable suspicion of criminal activity, does not violate the Fourth Amendment.”

Second, both the United States Supreme Court and the California Supreme Court have ruled that the officers' motivation for conducting the search is irrelevant unless the search was arbitrary or capricious.⁵ And, as the court in *Medina* pointed out, a search is arbitrary or capricious only if its motivation was “unrelated to rehabilitative, reformatory or legitimate law enforcement purposes, or when it is motivated by personal animosity toward the probationer.”⁶ Because none of these circumstances existed, the court ruled that the search of Medina's bedroom was lawful. POV

v. Watts (9th Cir. 1995) 67 F.3d 790, 794; *U.S. v. Johnson* (9th Cir.1983) 722 F.2d 525, 527-28; *U.S. v. Consuelo-Gonzalez* (9th Cir.1975) 521 F.2d 259, 266-67; *U.S. v. Merchant* (9th Cir. 1985) 722 F.2d 525, 528.

² See *United States v. Knights* (2001) 534 U.S. 112, fn.6.

³ (2006) 547 U.S. __.

⁴ See *People v. Bravo* (1987) 43 Cal.3d 600, 607, fn.6 [reasonable suspicion requirement will not be implied].

⁵ See *United States v. Knights* (2001) 534 U.S. 112; *People v. Robles* (2000) 23 Cal.4th 789, 797; *People v. Reyes* (1998) 19 Cal.4th 743, 754; *People v. Bravo* (1987) 43 Cal.3d 600, 610 [“A waiver of Fourth Amendment rights as a condition of probation does not permit searches undertaken for harassment or searches for arbitrary or capricious reasons.”]; *People v. Cervantes* (2002) 103 Cal.App.4th 1404, 1408 [“It is only when the motivation for the search is wholly arbitrary, when it is based merely on a whim or caprice or when there is no reasonable claim of a legitimate law enforcement purpose, e.g., an officer decides on a whim to stop the next red car he or she sees, that a search based on a probation search condition is unlawful.”]; *People v. Zichwic* (2001) 94 Cal.App.4th 944, 951 [“A search is arbitrary when the motivation for the search is unrelated to rehabilitative, reformatory or legitimate law enforcement purposes, or when the search is motivated by personal animosity toward the parolee.”].

⁶ **NOTE:** The court added that a search would also be unlawful if “conducted too often or at an unreasonable hour, or if unreasonably prolonged, or if conducted for other reasons establishing arbitrary or oppressive conduct by the searching officer.”