

## People v. Superior Court (Corbett)

(2017) \_\_ Cal.App.5th \_\_ [2017 WL 588128]

### Issues

(1) Did an officer violate the defendant's *Miranda* rights? (2) Did the defendant voluntarily consent to a search of his home? (3) If the consent was involuntary, was the search nevertheless lawful because the officers had probable cause for a warrant? (4) If the search was illegal, was the evidence nevertheless admissible under the "inevitable discovery" rule?

### Facts

At 6:35 A.M, LAPD received a 911 call from actress Sandra Bullock who said that a man wearing dark clothing had broken into her home and was still inside somewhere. As the responding officers entered the front door, they saw Joshua Corbett walking down a staircase. He was wearing dark clothing, and the officers arrested him. At that point, Corbett called out to Bullock saying, "Sandy, I'm sorry. Please don't press charges." Based on evidence in Corbett's possession, it appeared that Corbett had been stalking Bullock.

The next day, three LAPD detectives and a psychologist went to the jail to interview Corbett. After *Mirandizing* him, a detective asked, "So do you want to talk about what happened with Sandy?" Corbett responded, "Not really. I don't want to talk about it. No." The detective replied, "You don't want to help us understand why you were there?" Again, Corbett said "I don't want to talk about it." After the detective continued to urge Corbett to talk to him, Corbett said, "I did what I did. And I deserve to be punished for it. . . . I shouldn't have pushed the issue. I don't want to talk about it." Although Corbett did not respond to the detective's further requests to talk about the incident, at one point he "denied intending to hurt Bullock and said he was devastated that he had made her cry."

Having learned that eight firearms were registered to Corbett, the detective asked him for consent to search his home for the weapons.<sup>1</sup> It appears the detective thought that Corbett lived with his parents because at one point he said that it would be unpleasant for his parents if officers had to get a search warrant and "go there with a pry bar and a battering ram and disrupt your mother and father's life to get your guns." Eventually, Corbett consented to a search and he also explained how he was able to enter Bullock's home and what he did while he was inside.

Officers then searched Corbett's house based on his consent and seized seven firearms, including a machine gun and an assault weapon. Corbett was charged with 24 counts related to the firearms, plus stalking and burglary. Prior to trial, Corbett filed a motion to suppress his statements and the weapons. The motion was granted and the DA's office appealed.

### Discussion

At the outset, it should be noted that Corbett did not contend that he was unlawfully arrested or that anything the officers found during the search incident to arrest was

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<sup>1</sup> **NOTE:** The detective was aware that Corbett had been served with an Emergency Protective Order shortly after his arrest and that Corbett was required per the EPO to surrender all of his firearms. This did not, however, provide the detective with grounds to search Corbett's home for the weapons without a warrant or consent.

obtained in violation of the Fourth Amendment. Instead, he only sought the suppression of the statements he made during the interrogation and the weapons found in his home.

It is unnecessary to delve into the *Miranda* issue because Corbett obviously invoked his right to remain silent and, just as obviously, the detective continued to question him. Consequently, the DA acknowledged that any statements he made were properly suppressed. The DA also conceded that Corbett did not voluntarily consent to the search of his home. Although the court did not discuss the consent issue at length, it essentially ruled Corbett's consent was involuntary because the detective's refusal to honor his invocation would have caused a reasonable person in Corbett's position to believe that his constitutional rights were meaningless. As the trial court explained, "It wasn't close, frankly, to being consent" because "the officers overcame the defendant's willingness to resist" and, furthermore, Corbett "kept asserting his rights and they just kept on talking to him. And my feeling was at some point this man, in those conditions, on that date, probably did not think too much of his constitutional rights anymore."<sup>2</sup>

The DA did, however, argue that, even though Corbett's consent was invalid, the weapons were still admissible under the so-called "inevitable discovery rule." Under this rule, evidence and statements obtained unlawfully will be admissible if they would have been acquired inevitably by lawful means.<sup>3</sup> The case of *Nix v. Williams*<sup>4</sup> demonstrates how this rule works.

Officers in Iowa arrested Williams on charges that he had kidnapped and murdered a ten-year old girl. Although the girl's body had not yet been discovered, officers believed it had been left in a particular rural area. In fact, a search team composed of about 200 volunteers was searching for the body in that area when Williams was arrested. Although Williams was not *Mirandized*, an officer questioned him about the location of the body and Williams eventually disclosed it. At that point, the officers temporarily called off the search until they could make sure the body was located there; and they confirmed it a few hours later. On appeal, Williams argued that the body and the forensic evidence resulting from its discovery should have been suppressed because it was obtained in violation of *Miranda*. Despite the *Miranda* violation, the Supreme Court ruled that the evidence was admissible because the body would have been discovered inevitably since the search team was near the body and, based on maps the searchers were using, it was inevitable that they would have found it later that day. Said the Court, "[I]t is clear that the search parties were approaching the actual location of the body, and we are satisfied, along with three courts earlier, that the volunteer search teams would have resumed the search had Williams not earlier led the police to the body and the body inevitably would have been found."

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<sup>2</sup> **NOTE:** We think Corbett's consent would also have been deemed involuntary because of the detective's threat that if he was forced to get a warrant to search his parents' home, he would enter with a pry bar and battering ram. See *Parrish v. Civil Service Commission* (1967) 66 Cal.2d 260, 270-5 [threat to terminate welfare benefits]; *U.S. v. Soriano* (9th Cir. 2003) 361 F.3d 494 502 [threat to take away consenting person's children].

<sup>3</sup> See *Murray v. United States* (1988) 487 U.S. 533, 539; *Nix v. Williams* (1984) 467 U.S. 431, 444, 447 ["[I]f the government can prove that the evidence would have been obtained inevitably and, therefore, would have been admitted regardless of any overreaching by the police, there is no rational basis to keep that evidence from the jury"]; *People v. Carpenter* (1999) 21 Cal.4th 1016, 1040.

<sup>4</sup> (1984) 467 U.S. 431.

Back to *Corbett*, the Court said that “[t]his is not a case like *Nix*” where “the use of legitimate investigatory tactics [the search by volunteers] had brought police to the brink of discovering the illegally obtained evidence when the misconduct occurred.” Moreover, said the court, if the inevitable discovery rule applied in cases like *Corbett*, officers would never need a search warrant if (1) they had probable cause to search a house, and (2) they testified that they would have inevitably sought a warrant if the suspect refused to consent. In another case in which this argument was made, the Ninth Circuit responded that “to excuse the failure to obtain a warrant merely because the officers had probable cause and could have inevitably obtained a warrant would completely obviate the warrant requirement of the fourth amendment.”<sup>5</sup>

Consequently, the court ruled that the weapons inside Corbett’s home were properly suppressed. POV

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<sup>5</sup> *U.S. v. Echegoyen* (9th Cir. 1986) 799 F.2d 1271, 1280, fn.7.