

Q1.

U.S. v. Cioffi

Defendants Matthew Tannin & Ralph Cioffi are charged with conspiracy, securities fraud and wire fraud in connection with two Bear Sterns Funds they managed. (The bank that helped precipitated the 2008 Financial Crisis).

As part of the investigation the prosecutors requested a warrant to search Tannin's private email accounts based on an affidavit which contained evidence of Tannin suggesting in an email to Cioffi that he was using his personal email for conspiracy.

The defense however successfully argued this evidence be suppressed on the basis that the warrant was overly broad and therefore violated the 4th amendment.

The judge found that the warrant did not clearly state what is being sought as is required by the warrant clause of the 4th amendment and is therefore invalid.

The prosecution attempted to argue against this on the basis that the affidavit addressed what is being sought but the judge ruled that the affidavit needed to be attached to the warrant and referenced clearly.

Similarly when they tried to use the Good Faith exception to the warrant clause they were rejected as it required a clear statement of what was being searched for, inevitable discovery was also ruled out by the judge on the basis that the warrant was completely invalid.

Q2.

US v Paul Burdulis

Investigation: Paul Burdulis comes to the attention of the police after a 13 year old boy on a golf course, receives a note with his name and number on it. After confirming that he is the registered owner of the number and already a registered sex offender an office sets up an online persona to communicate with Burdulis in the name of the boy.

Over the course of four days, Burdulis sends 30~ emails to “Tye” including a naked image of himself, he suggests they should meet a number of times.

Local police then using the emails as evidence of probable cause, request a warrant to search Burdulis’s home. This warrant grants them the permission to seize all digital devices in the home and search them for information linking Burdulis to the emails and information regarding the creation and distribution of pornography.

Following this Burdulis is then charged and brought to a federal court, before this he challenges the search warrant and is defeated. He then appeals to the federal court, with a motion to suppress the evidence gathered on the basis “The warrant lacked particularity and that it did not establish probable cause that the evidence described in the warrant could be found in the locations defined in the warrant.”

The Judge however disagreed, while it’s true that police should be restricted to only the searching the devices that directly relate to the suspected crime and only for evidence that directly relates to the demonstrated probable cause.(In this case searching only the devices he sent the enticement emails from for evidence related to the emails only).

Police however also had probable cause based on his emails that he had pornography which he intended to distribute to Tye which is an offense. Therefore justifying a search of all the device in the property for pornography.

The warrant was therefore perfectly within the scope of the offenses.