

Police officers had probable cause to believe that a man had committed a series of armed bank robberies with an accomplice.

The officers obtained a valid arrest warrant for the man and went to his house to arrest him. The officers found the front door ajar and could hear a radio playing inside. They knocked on the door, identified themselves as police officers, and stated that they had a warrant. Getting no response, the officers entered the house. After the officers called the man's name several times and again identified themselves as police officers, the man emerged from the basement and was arrested. The officers went into the basement to look for the accomplice. They opened a closet door and found cocaine in plain view. They did not find the accomplice.

The man was indicted for cocaine possession. He has moved to suppress the cocaine as evidence on the ground that it was obtained in violation of the Fourth Amendment.

Should the court grant the motion to suppress?

- A. No, because the officers discovered the cocaine during a lawful protective sweep of the house looking for the man's accomplice.
- B. No, because the search was incident to the man's arrest.
- C. Yes, because the officers did not have a search warrant.
- D. Yes, because the officers did not have probable cause to believe that cocaine would be in the closet.

Explanation:

A court should deny a defendant's motion to suppress if the contested evidence was obtained during a reasonable Fourth Amendment search. A **protective sweep**—ie, a **quick, warrantless search of the premises** made incident to an arrest—is reasonable if:

police have a **reasonable suspicion** (ie, a belief based on specific, articulable facts) that the premises harbor someone who **poses a threat** to the safety of persons at the scene *and*

the sweep is limited to a **cursory inspection of places** where a **person could hide**.

Evidence or contraband found in **plain view** during the sweep may be seized without a warrant and admitted at trial.

Here, officers arrested the man pursuant to a warrant as he emerged from the basement of his home. The officers then conducted a protective sweep of the premises. That sweep was lawful because the man was suspected of committing armed bank robberies with an accomplice (reasonable suspicion of danger) and the sweep was limited to the basement and closet (places a person could hide). Therefore, the cocaine found in plain view during the sweep was lawfully seized and should be admitted (not suppressed) at trial.

(Choice B) The search-incident-to-lawful-arrest exception to the warrant requirement allows officers to conduct a warrantless search of an arrested person and the areas in his/her immediate reach. This exception does not apply here since the basement was not in the man's reach. Therefore, this is not a basis to deny the motion to suppress.

(Choice C) Police do not need a search warrant to conduct a protective sweep—or to seize evidence found in plain view during that sweep—if they reasonably suspect that a dangerous person is in the area to be searched (and the search is limited to places a person could hide).

(Choice D) Police did not have probable cause to believe that cocaine would be found in the closet. But since the cocaine was discovered during a lawful protective sweep, they did not need probable cause (or a warrant) to seize it.

Educational objective:

Police can conduct a protective sweep—a quick, warrantless search of the premises made incident to an arrest—if they reasonably suspect that a dangerous person may be on the premises and the sweep is limited to places where a person may be found. Evidence found in plain view during the sweep may be seized without a warrant.

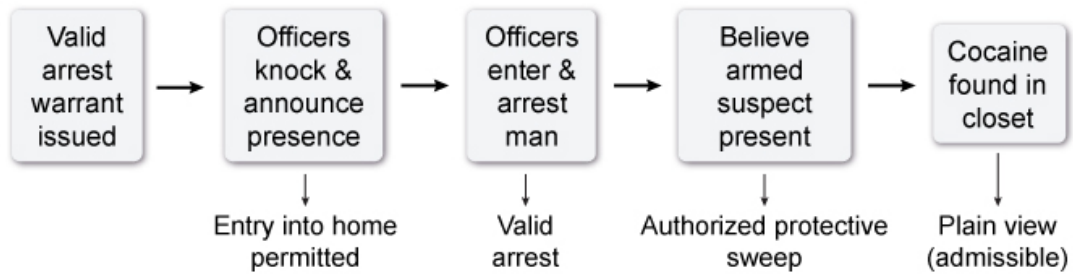
References

U.S. Const. amend. IV (prohibition against unreasonable searches and seizures).

Maryland v. Buie, 494 U.S. 325, 334–36 (1990) (explaining that officers may conduct a protective sweep if they have reasonable suspicion that a dangerous person is in the area swept).

Copyright © 2019 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.



©UWorld