

United States customs officials received an anonymous tip that heroin would be found inside a distinctively marked red package mailed from a foreign country to a particular address in the United States. Pursuant to this tip, United States customs officers intercepted and opened the red package and found heroin inside. They then resealed the package and left the heroin inside it. The FBI was notified and, as agents watched, the package was delivered to the address.

The FBI then secured a warrant to search the house for the package. About two hours after the package was delivered, agents executed the warrant at the house. The man who opened the door was arrested, and the agents found the package, unopened, in an upstairs bedroom closet. After seizing the package, the agents looked through the rest of the house. They found a machine gun in a small footlocker in the basement.

The man was charged with unlawful possession of the machine gun, among other crimes. He moved to suppress the use of the gun as evidence.

Should the court grant the motion to suppress the machine gun?

- A. No, because, having found the package, the agents had probable cause to believe that more narcotics could be located in the house and the gun was found in a proper search for narcotics.
- B. No, because narcotics dealers are often armed and the search was justified to protect the agents.
- C. Yes, because the initial search by the customs officers was without probable cause.
- D. Yes, because the search exceeded the authority granted by the warrant.

Explanation:

Generally, a **Fourth Amendment search or seizure** must be **authorized by a warrant** that particularly describes the place to be searched and the items to be seized. Officers may seize illegal items discovered during the authorized search but **cannot exceed the warrant's authority**. Therefore, once items specified in the warrant are **seized**, the search **must end** unless another warrant is obtained or an **exception** to the warrant requirement applies. But if the search **instead continues**, any items seized during that illegal search should be **suppressed**.

Here, federal agents obtained a warrant to search the man's house for a red package (item specified in the warrant). Once they seized that package, their search should have ended. Instead, the agents exceeded the warrant's authority by continuing to search the house. And since the machine gun was discovered during that unreasonable search, it should be suppressed at trial.

(Choice A) Seizure of items specified in the warrant may provide police with probable cause to believe that other illegal items are in the searched location, but it does not allow police to continue their search. Instead, they must obtain a warrant or establish an exception to the warrant requirement.

(Choice B) Police do not need a warrant to conduct a protective sweep of the premises if (1) they have reasonable suspicion that someone on the premises may pose a threat to their safety and (2) the sweep is limited to a cursory inspection of places where a person may be found (eg, a closet). Here, though narcotics dealers are often armed (reasonable suspicion of threat), the agents could not search the *small* footlocker since a person could not fit inside.

(Choice C) Under the special government purpose exception to the warrant requirement, customs officials may conduct border searches and search international packages without a warrant or probable cause. Therefore, this is not a basis to grant the man's motion.

Educational objective:

When police conduct a search pursuant to a warrant, they must end their search once the items specified in that warrant are seized. They can only continue their search if they obtain another warrant or establish an exception to the warrant requirement. But if they continue without doing so, any seized items should be suppressed.

References

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

Marron v. United States, 275 U.S. 192, 196 (1927) (limiting the scope of a search and seizure to what is described in the warrant).

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Search exceeding scope of warrant timeline

