

The police had accumulated reliable information that a man operated a large cocaine-distribution network, that he and his accomplices often resorted to violence, and that they kept a small arsenal of weapons in his home.

One day, the police received reliable information that a large brown suitcase with leather straps containing a supply of cocaine had been delivered to the man's home and that it would be moved to a distribution point the next morning. The police obtained a valid search warrant to search for and seize the brown suitcase and the cocaine, and they went to the man's house.

The police knocked on the man's door and called out, "Police. Open up. We have a search warrant." After a few seconds with no response, the police forced the door open and entered. Hearing noises in the basement, the police ran down there and found the man with a large brown suitcase with leather straps. They seized the suitcase and put handcuffs on the man. A search of his person revealed a .45-caliber pistol. The man cursed the police and said, "You never would have caught me with the stuff if it hadn't been for that lousy snitch!"

The police then fanned out through the house, looking in every room and closet. They found no one else, but one officer found an Uzi automatic weapon in a box on a closet shelf in the man's bedroom.

In addition to charges relating to the cocaine in the suitcase, the man is charged with unlawful possession of weapons. The man moves pretrial to suppress the use as evidence of the weapons seized by the police and of the statement he made.

As to the Uzi automatic weapon, should the court grant the man's motion to suppress?

- A. No, because the police were lawfully in the bedroom and the weapon was immediately identifiable as being subject to seizure.
- B. No, because the police were lawfully in the house and had probable cause to believe that weapons were in the house.
- C. Yes, because once the object of the warrant—the brown suitcase—had been found and seized, no further search of the house was permitted.
- D. Yes, because the search exceeded the scope needed to find out if other persons were present.

### Explanation:

A court should suppress evidence taken during a Fourth Amendment search or seizure conducted without a warrant or an exception to the warrant requirement. 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 and articulable facts) that there is **someone who poses a threat** in the area being swept *and*

the sweep is limited to a **cursory inspection of places** in which a **person could hide** (eg, closet, laundry room).

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

Here, the man was known to have violent accomplices, so the police had a reasonable suspicion that there was someone who posed a threat in the home. This authorized the protective sweep after the suitcase was seized and the man was arrested (**Choice C**). But that sweep should have been limited to places where persons could hide—not a box on a closet shelf. Therefore, the Uzi found in that box should be suppressed.

**(Choice A)** The police were lawfully in the bedroom and the Uzi was immediately identifiable as contraband once the box in the closet was opened. But they wrongfully opened that box since a person could not hide there. Therefore, the Uzi found in the box should not be admitted as evidence at trial.

**(Choice B)** Although the police were lawfully in the house to execute the search warrant for the suitcase and cocaine, the warrant did not authorize the seizure of weapons. And although the police had probable cause to believe that there were weapons in the house, this did not permit their continued search of the home once the suitcase and cocaine were seized.

### Educational objective:

Police may conduct a protective sweep—a quick, warrantless search of the premises made incident to an arrest—if (1) they have a reasonable suspicion that there is a dangerous person in the area to be swept and (2) the search is limited to a cursory inspection of places where a person could hide.

### 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).

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**Protective sweep**  
(limited to places person can hide)



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