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MEMORANDUM

TO: ALL INTERESTED DEFENSE COUNSEL

FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES

NAME: SULLIVAN

RE: PRETRIAL SUCCESS IN SUPPRESSING EVIDENCE OBTAINED WITHOUT A WARRANT

We all know that the question of admissibility of evidence is often one of the key aspects to the defense in a criminal prosecution. The case of *United State v. Sullivan*, (S.D. Illinois , #02-CR-40030-1) is a most recent example of how the team approach of *National Legal Professional Associates* working with counsel has successfully stopped the government in its attempts to use illegally obtained evidence against a defendant. In this case, NLPA assisted Benton, Illinois attorney Paula Newcomb, in researching and supporting a motion to suppress physical evidence discovered and seized in a warrantless search of a hotel room.

In *United States v. Sullivan*, the Defendant was indicted on one count of conspiracy to manufacture methamphetamine. The general facts involved were that the Defendant and others had stayed at a local hotel. While the individuals were absent from the room, law enforcement officers arrived. The officers conducted an initial search of the room to determine if there were any safety issues to be addressed. Soon thereafter, they conducted a full search of the hotel room, obtained fingerprints from throughout the room including those on a receptacle containing a small amount of methamphetamine, and identified one fingerprint as belonging to the Defendant. From the evidence obtained, an indictment and subsequent arrest warrant were issued for the Defendant.

One of the key matters during the pretrial proceedings was whether the warrantless entry and search of the hotel room was proper in light of the Fourth Amendment and its case law progeny. The Defendant's counsel, with arguments and research prepared by NLPA, argued to the Court that a warrantless entry and search of a hotel room can only be legal if it is based upon exigent circumstances. As noted to the Court, before agents of the government may invade the sanctity of the home, the burden is on the government to demonstrate exigent circumstances that overcome the presumption of unreasonableness that attaches to *all* warrantless home entries. The Fourth Amendment prohibits governmental intrusions into dwellings without a warrant supported by probable cause, subject to only a few carefully delineated exceptions.

The underlying theme to this important protection was once explained by Justice Jackson in *McDonald v. United States*, 335 U.S. 451 (1948):

“Whether there is reasonable necessity for a search without waiting to obtain a warrant certainly depends upon the gravity of the offense thought to be in progress as well as the hazards of the method of attempting to reach it . . . It is to me a shocking proposition that private homes, even quarters in a tenement, may be indiscriminately invaded at the discretion of any suspicious police officer engaged in following up offenses that involve no violence or threats of it.”

Id. at 459-460.

Without an emergency situation demanding urgent police action, there is no excuse for the failure to procure a search warrant. In this case, there were no exigent circumstances to justify the entry. Hotel cleaning persons entered the room so that it could be cleaned. Upon entry, they claim to have noticed a foul odor in the air, and several items out of place. After finding these items, they locked the room and reported their findings to hotel management. Shortly thereafter, the officers arrived. No one could enter or exit the hotel room without the knowledge of the police.

Put simply, the hotel room was secure. There was ample time for the police to obtain a warrant to enter the dwelling if the police believed they had the necessary probable cause to do so. Thus, the warrantless entry was not justified and all evidence obtained subsequent to the entry should have been suppressed as "fruit of the poisonous tree.”

Exigent circumstances means that there is no time to obtain a warrant. In this case, the officers essentially ignored the constitutional protections provided by the Fourth Amendment and for that reason, the evidence obtained from the illegal search, it was argued to the Court, should be suppressed.

With NLPA’s assistance, research, and support, counsel made this argument to the Court. After obtaining substantial written memoranda, the trial court ultimately granted the Defendant’s motion to suppress with regard to physical evidence discovered and seized during searches conducted after the initial brief search of the hotel room. The research prepared by NLPA for Ms. Newcomb assisted the Court in holding that the Defendant’s Fourth Amendment rights were violated and that evidence should be suppressed.

Should you or your client find yourself in a similar situation, NLPA and its experienced research team stands ready to assist you with the most up-to-date research in the preparation of pleadings to protect your client’s rights. We look forward to another victory!

NLPA: WE CARE, WE LISTEN, WE GET RESULTS!

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