



Roll Call Reporter

January 2017

LEGAL UPDATE FOR MARYLAND LAW ENFORCEMENT OFFICERS

Question: Can a strip search be performed at a police station?

Answer: Yes. As long as the search is reasonable in scope and manner and is justified by reasonable and particularized suspicion, it can be performed in any suitably private area that is shielded from public view, including a secured or restricted access room at a police station.

Case: *Deon Leroy Williams v. State of Maryland*
Court of Special Appeals of Maryland
Decided December 2, 2016

The Informant's Tip, the Whren Stop, and the Arrest

On the evening of September 17, 2013, at approximately 6:30 p.m., Sergeant Leonard Nichols, an 11-year veteran with the Maryland State Police, the last five years with the Caroline County Drug Task Force, received a telephone call from a confidential informant ("CI"). The CI told him that Deon Leroy Williams ("Williams"), who was personally known by the sergeant as a drug dealer and whom he had arrested for drug crimes many times, was attending a Narcotics Anonymous meeting and that, when he left, he would enter a described car that was parked

behind the Wal-Mart on Teal Drive in Easton. Williams would then leave the area in the car and make drug drops – selling specified amounts of drugs to individuals. After the sergeant received the call, he learned and confirmed through dispatch that Williams' license had been suspended and revoked.

The sergeant and his partner set up a surveillance of the area, and, a short time later, Williams was observed leaving the area in the described vehicle. The sergeant followed Williams' car for about 1/4 of a mile when he decided to make the traffic stop, believing that he had been spotted. Williams pulled into a parking lot and stopped. Sergeant Nichols followed, pulled next to Williams, and stopped. Williams was ordered out of the car and placed under arrest for driving on a suspended and revoked license.

The Search Incident to Arrest, the Strip Search, the Search Warrant, and the Drugs

Williams and his vehicle were searched pursuant to the arrest but no drugs were found. Williams did have \$1,356 on his person. During the search, Williams was cooperative but was so nervous that his chest was moving up and down and the

muscles in his neck were visibly contracting. Williams was visibly sweating although the temperature was relatively cool. Sergeant Nichols believed that narcotics related criminal activity was afoot and transported Williams to the Easton Barrack where Williams could be processed and strip searched.

At the barrack, Williams was led to the "intoximeter room," a multipurpose room of the Easton Barrack where DUI's and fingerprints are processed. It is a secure area of the barrack where the public is not allowed. Williams, Sergeant Nichols, and two, maybe three other officers were present in the room. Williams was asked to take off his clothes, turn around, bend over, and spread his buttocks apart. Williams did as he was instructed, except he did not spread his buttocks so Sergeant Nichols could see his anus clearly. Nonetheless, the sergeant did see a plastic baggie protruding from Williams' rectal area. Sergeant Nichols tried to spread Williams' buttocks apart to retrieve the baggie but could not because Williams clenched his muscles.

Sergeant Nichols then tried to handcuff Williams, and a scuffle broke out. Williams was quickly handcuffed and the sergeant told him what he had seen. Williams, however, refused a request to remove the baggie himself. The officers then left Williams naked in the room for about an hour while the sergeant applied for and received a search warrant for medical personnel to remove the baggie from Williams' anus. Williams was taken to a hospital where, around 12:50 a.m., a doctor physically removed from Williams' anus a plastic baggie containing what was later determined to be a baggie of heroin and a baggie of crack cocaine.

The Charges, the Motion to Suppress and the Conviction

In addition to the traffic offenses, Williams was charged with drug offenses. Prior to his trial, he moved to suppress the drugs recovered pursuant to the cavity search. His motion was denied and he subsequently entered a plea of guilty. He later filed an application for leave to appeal, which was denied. However, Williams' appeal in a related case involving the recovery of drugs and weapons from his residence in Caroline County included consideration of the legality of the strip search.

The Decision of the Court of Special Appeals

The appeals court began by identifying the three categories of a strip search: (1) A general "strip search" that involves an inspection of a naked individual, without any inspection of the subject's body cavities; (2) a "visual body cavity search" that involves a visual inspection of the anal and genital areas, and (3) a "manual body cavity search" that includes some degree of touching or probing of body cavities, and is normally performed by a gynecologist or proctologist because of hygienic and medical concerns. Even if an investigator attempts to retrieve a plastic baggie seen protruding from a suspect's anus or if the investigator attempts to spread the butt cheeks of a suspect who refuses to do so, the search is still a "visual body cavity search" because the seizure is simply permissible under the Plain View Doctrine.

When a person is arrested for traffic offenses unrelated to drugs and subsequently strip searched, a four-factor balancing test is used to determine if the strip search is constitutional. The four factors are: (1) the "scope" of the intrusion, (2) the "manner" in which the intrusion is conducted, (3) the "justification" for the intrusion, and (4) the "place" in which it is conducted. A flexible approach is used by the courts in balancing the four factors. The balancing test pits the need for a



particular search against the invasion of personal rights entailed by the search.

Here, the court found that the search was intrusive and demeaning, as it involved inspection of the anal area. The court next found that the manner in which the search was conducted and the place where it was conducted were reasonable. Finally, the court found that the search was justified because there was a particularized reasonable belief that evidence of a drug crime would be found on or in Williams' body. The justification for the search was based on the information from the CI, the sergeant's extensive knowledge of Williams and his drug dealing, the large amount of cash found on Williams' person, and his extreme nervousness.

In light of this evidence, the court concluded that while one factor weighed in Williams' favor, the other three weighed in the State's favor. Thus, the strip search was reasonable and legal and Williams' convictions were upheld.

NOTE: When it comes to strip searches performed by police officers, the more private and secure the place of the search, the better. Also, the fewer observers, the better. As to "particularized suspicion," it should be based on the personal knowledge of the officer conducting or directing the search, as opposed to the more general "collective knowledge" possessed by other officers of a police agency. In this case, for example, the sergeant had numerous drug related contacts with the suspect.

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