



LEGAL UPDATE

SEARCH WARRANT SHOULD SPECIFY THE DRUGS BEING SOUGHT

Commonwealth v. Padilla, 105 Mass. App. Ct. 138 (2024).

RELEVANT FACTS

A detective submitted an affidavit in support of an application for a search warrant that stated a confidential informant (CI) told the detective in February 2019 that a man was selling narcotics from a second-floor apartment at a specific location. The affidavit did not specify the substance the defendant was selling, instead saying it was “narcotics (such as cocaine, heroin, marijuana, and/or prescription medications like oxycodone hydrochloride pills.)”

The affidavit also described two controlled buys made by the CI in March 2019. The affidavit stated that after each controlled buy the CI turned over to officers “narcotics (such as cocaine, heroin, marijuana, and/or prescription medications like oxycodone hydrochloride pills)” which had been purchased from the defendant. The affidavit stated that some details about the controlled buys was intentionally withheld, including the type of narcotics purchased, to protect the identity of the CI who had concerns for its safety.

A search warrant issued on March 25, 2019, authorizing a search of the defendant’s apartment for “all controlled substances which have been ...distributed...in violation of MGL c 94C,” and other items. Upon execution of the search warrant, officers seized cocaine, marijuana, amphetamine and oxycodone pills, a pistol, ammunition and cash.

The defendant was indicted on various narcotics and firearms offenses. The defendant filed a motion to suppress which was denied. After entering a conditional plea of guilty, he appealed.

DISCUSSION

The warrant at issue in this case authorized officers to search for “all controlled substances which have been manufactured, delivered, distributed, dispensed or acquired in violation of MGL c 94C.” The defendant argued that this description did not meet the particularity

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requirements of the Fourth Amendment, art. 14 of the Massachusetts Declaration of Rights, or the statutory requirements. The Appeals Court agreed.

The Fourth Amendment and art. 14 require search warrants to describe the items to be seized. MGL c 276 § 2 also requires that warrants “particularly describe the property or articles to be searched for.” These constitutional and statutory requirements essentially prohibit general warrants.

The degree of specificity required when describing the items to be sought varies depending on the circumstances of the case and the type of items sought.

“Ordinarily, a search warrant for a controlled substance that is being illegally possessed or distributed must name the substance for which police have probable cause to search. The description of the controlled substance sought need not be elaborate; its name suffices.”

Broad categories such as “any and all controlled substances” are impermissible. When officers can specifically describe or name the controlled substance they are seeking, they must do so to meet the particularity requirement. In this case, officers knew what the CI bought, so this was not a situation where officers lacked the information needed to limit the description.

The court found that a lack of particularity in the description of the item sought could be justified in the right circumstances. In this case, the affidavit stated that disclosing what the CI bought would have tended to identify the CI. The affidavit also included the specific date of the second controlled buy which the court found was more likely to reveal the CI’s identity than information about what was purchased by the CI. Under these circumstances, the failure to identify the drugs officers were looking for was a fatal one.

The motion to suppress should have been allowed.