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State v. Depina, 245 A.3d 1222 (R.I. 2021)

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Criminal Law. *State v. Depina*, 245 A.3d 1222 (R.I. 2021). Under the Fourth Amendment of the United States Constitution, a valid search warrant must particularly describe any items to be seized. In executing a warrant, police officers may not seize anything beyond the scope of what is described, even if they deem it relevant to the investigation, else the seizure is unconstitutional. However, a seizure is not unconstitutional where the executing officer believes that the item in question falls within the scope of the search warrant and the court finds that belief to be reasonable.

FACTS AND TRAVEL

On July 3, 2013, defendant Jorge Depina took his ten-year-old daughter, Aleida, to the hospital where it was determined that she was exhibiting “no vital signs” after reportedly having been alone with him for the past twenty-four hours.¹ At the hospital, two Pawtucket Major Crimes Unit (MCU) detectives examined the body and found “extensive bruising on many, many areas of her body, her legs, her back” in addition to “burn marks” and what the detectives thought to be “whip marks.”² Upon this discovery, the police promptly obtained a warrant to search the residence of Depina that same day.³ After an autopsy had been performed on July 5, 2013, the police obtained a second warrant for the property to look for hard items that may have been used to swing, strike, bind, or hold, as well as items with blood, semen, or vomit on them.⁴ It was during the second search that the police seized the defendant’s Samsung camera from his bedroom.⁵

On October 25, 2013, when viewing the evidence, the police determined that they had not viewed the contents of the camera and thus, on October 28, the police obtained a third warrant, this one

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1. *State v. Depina*, 245 A.3d 1222, 1223-24 (R.I. 2021).
 2. *Id.* at 1224.
 3. *Id.* at 1223.
 4. *Id.* at 1223-24.
 5. *Id.*

for the purpose of searching the contents of the camera.⁶ In searching the camera, the detectives retrieved the memory card from its side compartment and within the memory card, the police found seven videos that were relevant to the case.⁷ Later, in 2014, defendant Depina was indicted by a Grand Jury on one count of second-degree murder for the death of his daughter, and on December 22, 2017, he moved to suppress all the tangible evidence seized by the police, including the camera (the item of concern to this appeal).⁸ He alleged that said evidence was “obtained in violation of the Fourth Amendment of the United States Constitution as well as Article I, Section Six of the Rhode Island Constitution,”⁹ which both protect citizens against unreasonable search and seizure.¹⁰

Pretrial motions were heard over a five-day span in January 2018, and in that time Detectives Rosciti and Silva, who had first responded at the hospital and were heavily involved in the investigation, both testified in regard to the camera’s seizure.¹¹ Detective Rosciti testified that the camera was seized in the second search of the defendant’s house when the police were looking for items that “would have been used to hit, strike, [or] whip Aleida.”¹² Detective Rosciti further testified that although there were no scratches or other marks on the camera, it seemed to fit all the criteria they were looking for as it was metal or hard plastic and it could be used to swing, hit, or jab at someone.¹³ Detective Silva testified that while a camera is not a weapon, he felt it fell within the parameters of the second warrant because the medical examiner had told them to “think outside the box” and not just limit their search to items they would ordinarily think to use.¹⁴ Both detectives testified that, to the best of their knowledge, the camera was never sent to the Department of Health for forensic inspection nor was it ever delivered to the medical examiner to be tested against the injuries.¹⁵

6. *Id.* at 1224-25.

7. *Id.* at 1226.

8. *Id.* at 1223.

9. *Id.* at 1224.

10. U.S. CONST. amend. IV; R.I. CONST. art. I, § 6.

11. *Depina*, 245 A.3d at 1224-26.

12. *Id.* at 1224.

13. *Id.* at 1225.

14. *Id.* at 1226.

15. *Id.* at 1225-26.

After acknowledging that the Fourth Amendment requires one to “particularly describe the persons or things to be seized[,]” the trial justice looked to the four corners of the July 5th search warrant to consider its precise language.¹⁶ As she looked at the language of the warrant, the trial justice had the camera in hand to examine and she described it as small but especially hard and heavy as well as capable of being swung as a weapon.¹⁷ The trial justice felt that the aforementioned characteristics coupled with the medical examiner’s instruction to “think outside the box” was enough for the camera to be deemed within the scope of the warrant and thus, she denied Depina’s motion to suppress.¹⁸ In April of 2018, Depina was found guilty by a jury of second-degree murder and sentenced to life imprisonment.¹⁹

ANALYSIS AND HOLDING

The Court began the discussion portion of its opinion by addressing Depina’s contentions on appeal. Depina argued that as a small and delicate piece of equipment, “no rational person” would think it possible that the camera was used as a weapon, and thus taking it exceeded the scope of the second warrant and was unconstitutional.²⁰ Depina directed the court to the fact that “there were no scratches, blood, hair, or fibers on the camera and that [it] was never sent for forensic examination[,]” as well as to the fact that some other items taken—like a laptop and report card—suggested that the police “did not confine themselves to the judicial dictates of the second warrant.”²¹

The Court next addressed and explained the Fourth Amendment to the United States Constitution, which governs the issue on appeal in this case: whether the police exceeded the scope of the second warrant when they seized the camera.²² The Court took care to point out that the United States Supreme Court has long held general searches to violate the Fourth Amendment and that

16. *Id.* at 1227.

17. *Id.*

18. *Id.*

19. *Id.* at 1226.

20. *See id.* at 1228.

21. *Id.*

22. *Id.*

the reasons a warrant must particularly describe the things to be seized is to prevent general searches or improper seizures and to ensure that “nothing is left to the discretion of the officer executing the warrant.”²³ Where the scope of a search goes beyond the parameters specified by a valid warrant, “the subsequent seizure is unconstitutional.”²⁴ Before going further, the Court noted that the only narrow issue being considered was the seizure of the camera.²⁵

Finally, the Court applied the rule of law to the facts of the case, first by referring back to the relevant factual findings of the trial justice, especially the conclusions she came to after physically examining the camera about its weight and its ability to be used as a weapon.²⁶ The Court also referred back to the detectives testimonies about how they were told to think “outside the box” and that the camera “fit all the criteria,” before concluding that the second warrant was unambiguous and that the camera fit its parameters as it was a “hard. . . item which could be swung to inflict injury.”²⁷ Justice Robinson further added that the Court was “not dissuaded” by the defendant’s arguments regarding the lack of markings or blood on the camera as well as the lack of forensic testing because it was within the scope of the second warrant, and it was not unreasonable for the police to have believed the item could have been used as a weapon.²⁸ For the reasons stated above, the Court affirmed the judgment of the trial justice.²⁹

COMMENTARY

In this case, the Rhode Island Supreme Court clearly acknowledged the importance of the protections provided by the Fourth Amendment of the United States Constitution, but ultimately concluded that seizing the camera did not exceed the second warrant and thus was not a violation of the defendant’s constitutional rights.³⁰ In discussing the Fourth Amendment, the Court made sure to stress the well-settled illegality of general searches and the

23. *Id.* (quoting *Marron v. United States*, 275 U.S. 192, 195 (1927)).

24. *Id.* (quoting *United States v. Hamie*, 165 F.3d 80, 82 (1st Cir. 1999)).

25. *Id.* at 1229.

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.* at 1230.

30. *Id.* at 1228-29.

reasons why such particularity is required in warrants, which was an effective way to convey that the Justices understood the importance of the issue at hand and were taking it seriously.

In applying the law to the unsettling facts of the case at hand, the Court's analysis was quite straightforward and to the point as it was clear that based on the trial justice's detailed description of the camera's physical attributes it fell within the purview of the warrant, which called for among other things "any metal items, plastic items, or hard items, anything that may be used to swing or strike[.]"³¹ The camera fit that description, and thus it was not unreasonable for the police to seize it.³² However, when considering some of the other items taken, the defendant could arguably have a point that the police exceeded the scope of the warrant. Some of the other items seized, like the laptop and especially the report card, seem like they may push the bounds of the warrant. On the other hand, those items actually could fall within the scope of the warrant as a laptop could be used to hit and the report card may have had blood or other markings on it, which was called for by the July 5th warrant.³³

Nonetheless, the Court's focus on appeal was limited to the camera, so the analysis on appeal was more straightforward as the camera fit neatly within the four corners of the second search warrant.³⁴ Additionally, the fact that the police were told to "look outside the box" and that the camera's contents were not inquired into until three months after its seizure further suggest that the police did not exceed the warrant and that the camera was not initially taken for its contents.³⁵ For the reasons stated, I agree with the Court that it cannot be said that it was unreasonable for the police to seize the camera, and as such, I believe the Court came to the right decision in affirming the trial justice's ruling.

CONCLUSION

The Rhode Island Supreme Court held that the Superior Court justice "did not commit clear error" in conducting her analysis and

31. *Id.* at 1229.

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.* at 1227.

ultimately denying Depina's motion to suppress the camera and its contents from evidence.³⁶ The Court concluded that "the language of the second warrant was clear and unambiguous" and that "the camera very clearly fits within [its scope]," as such, the police did not violate the defendant's Fourth Amendment rights when they seized it.³⁷

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36. *Id.* at 1230.

37. *Id.* at 1229.