

# Constitutional law: search incident to arrest

Law



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Constitutional Law: Search Incident to Arrest The United States v. Pope On August, 16th 2009, Officer Ken Marcus was called upon to attend from a complaint (Pope 2014). There was loud music and there was the use of a public address system. The events happened in El Dorado national park in a large gathering of people (Pope 2014). Additionally, the events were recorded in a video which makes any incidence in the event undisputed. Officer Marcus was the only officer on the scene which made him careful in his approach in case on any confrontations.

Pope confronted Officer Marcus after he arrested one of his friends and he was at the back of the patrol car (Pope 2014). Officer Marcus asked Pope if he had smoked marijuana a claim Pope agreed to have done. Officer Marcus asked him for the second time and he agreed to it. Officer Marcus asked Pope if he had in possession any marijuana. Pope denied this accusation. Officer Marcus asked Pope to empty his pockets but Pope denied showing the contents of his pockets. The officer asked Pope for the second time if he had marijuana. The second time Pope agreed to have in possession marijuana (Pope 2014). He also agreed to place the contents of his pockets on the police car. He had in possession Marijuana and this was enough for Officer Marcus to make an arrest.

Before the magistrate, Pope moved to argue against the search made him be arrested for possession of marijuana. He argues the search made on him was illegal under the Fourth Amendment (Pope 2014). The magistrate denied Pope's motion by pointing out that the search that made the officer arrest Pope for marijuana was legal. The Magistrate pointed out that the first order to search Pope was illegal and Pope denied complying. The second command to empty his pockets after Pope denied complying with the officer's request.

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For this reason, the search warrant was legal under the Fourth Amendment (Pope 2014).

The judgment of the case was made a case in the District Court which was supposed to determine the case. The district court made the judgment but on different angles. The court ruled that the first command was directed as a search but it was directed by a probable cause for arrest. Additionally, Pope did not comply on the first command and the second requested was made after Pope admitted being in possession of marijuana which is legal and situation appropriate (Pope 2014).

However, Pope appealed the case citing irregularities in the judgment passed by the district court. The arguments presented by Pope revolve around the fact that a search conducted on a person with no warrant is illegal even at second command (Pope 2014). Additionally, Pope also opposed the argument by the district court that the search was on probable cause

The court of appeal stood by the district court's decision by pointing out that the evidence in Pope's pocket could have been destroyed if the officer had not commanded the suspect to empty his pocket. For this reason, the court denied Pope's pleas to suppress evidence (Pope 2014).

Work cited

Pope v. United States. No. 11-10311. Appeal from the United States District Court. 2012. Web. 14 Feb. 2014.