

Searches, warrants and amendments

Law



Searches, Warrants and Amendments a) The pendent acquired from Elaine is admissible to court as evidence since it was acquired procedurally. According to the 4th Amendment, the American constitution safeguards its citizens from unreasonable searches without warrant. But it also stipulates that searches shall be conducted in circumstances where the officers have probable reasons. Searches considered legal are only those conducted under the law through search warrants issued by a judge. Jerry and Kramer conducted the search within the law as they obtained a warrant before conducting the search. They had suspected Elaine to possess stolen property and from the search conducted they recovered the stolen pendent. The pendent was therefore recovered lawfully and is admissible to court as evidence. The pendent was recovered from Elaine and had her name on it so it could not be connected to George in any way. Therefore it cannot be admissible to court as evidence against George since it was found in Elaine's possession. b) Under the 4th amendment, seizure of contraband items is within the law. Search warrants are advocated in the 4th amendment but there are exceptional cases where searches and seizure can be done without warrant. In case an officer seen in plain view items that are contraband, the officer can seizure the items (State Bar of Georgia, p 10). In this case, the officers saw these items in a plain view. Contraband items are unlawful items held by individuals. The child pornography and gun are admissible as evidence against Elaine. They are items held against the law. They were lawfully acquired as the arresting officer is required to look around the scene to ensure he is secured and that all evidence is collected to build up a case. Jerry and Kramer therefore lawfully obtained the gun and child pornography hence they can use it as admissible evidence against Elaine. These items can

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only be attributed to Elaine since it is her premises. They cannot be admissible as evidence against George since it is not his residence hence he might not be aware of their existence. c) The law stipulates that any item that can be used to commit a crime or that can aid in a potential crime is to be seizure. Proper seizure is stipulated as one that recovers items considered fruits of crime, instrumentality of crime and evidence of crime. Terrorism is a crime according to the American and universal law (State Bar of Georgia). The film is a potential item that can stop a crime occurring. The officers were within legal bounds in acquiring the film since it unfolded probable occurrence of terrorist activities. The film is admissible as evidence to Elaine because it was found in her possession. It is also admissible to George as the law enforcement agencies discovered information that connected George to the terrorist activities. d) Officers can promptly search and seizure illegal items without a warrant once they have a plain view of the illegal items. Kramer saw the cocaine sitting on the sofa. He was legally bound to seizure the cocaine since it is a contraband item. Cocaine is one of the prohibited drugs according to the Controlled Substances Act of 1970 and as stipulated in Schedule II (State Bar of Georgia, p 12). The law holds that importation, manufacturing, distribution, possession of these prohibited substances is illegal. So Elaine illegally possessed a substance that is prohibited by the law. Kramer did not violate any law in the seizure of the cocaine and therefore it is admissible to court as evidence against Elaine. The vial of cocaine obtained in Elaine's house will not be admissible evidence against George because it was seizure in Elaine's premises. It was also established that it was obtained from Newman who happens to be Elaine's friend so it is not connected to George in any way. e) The 4th amendment <https://assignbuster.com/searches-warrants-and-amendments/>

gives an exceptional permission for searches where the suspected person consents to the search. It was illegal for the officers to search George's property. But George admitted to possess the crack and indicated to the officers where they could find it. This means that George accepted his property to be searched hence the crack seizure from George's shaving kit. Therefore, the crack obtained from George's shaving kit was legally seizure. Cocaine is contraband and therefore its possession is illegal as indicated by the Controlled Substance Act of 1970. The cocaine is admissible as evidence against George since it was found in his possession. It however may not be admissible as evidence against Elaine since she may have not been aware of its presence in George's shaving kit. Also, the cocaine was found in George's possession hence it has no connection with Elaine. Works Cited State Bar of Georgia. " Searches, Seizure and Arrests, 2013". Web. Accessed December 3, 2013 Available at: