

UNITED STATES v. ROMERO-GARCIA

991 F. Supp. 1223
District Court Oregon
1997

Facts of the Case

The defendant was arrested as part of an ongoing drug investigation. While Romero-Garcia was being booked into custody officers noticed that he had a pager. The officers had received information earlier that same day that lead them to believe that the pager more than likely contained important information related to their case. The officers then seized the pager and searched it for numbers. At trial Romero-Garcia argued that the seizure of the pager was a violation of his Fourth Amendment rights, and even if the seizure was acceptable, the subsequent warrantless search of the pager was a violation of his Fourth Amendment rights. The officers argued that their search of the pager was justified under the exigent circumstances exception to the requirement of a search warrant.

Legal Issues

Issue 1: Was the seizure of Romero-Garcia's pager a violation of the 4th Amendment? NO

Issue 2: Was the search of the pager justified under the exigent circumstances exception to the warrant requirement? YES

Rationale

Issue 1

The government relied on two exceptions to the warrant requirement in justifying their seizure of the pager. First, is the issue of search incident to arrest, and second, is the plain view doctrine. Romero-Garcia argued that the search incident to arrest doctrine did not apply because the seizure did not occur until two hours after his arrest. The court did not even consider the merits of this argument as it was reasoned that the officers were in a place they were allowed to be when they noticed the pager. Further, based on information they had received earlier in the

day their belief that the pager would contain valuable evidence was a reasonable one and the pager was therefore legally seized under the plain view doctrine.

Issue 2

The court relied on the decision in *United States v. Hudson*, 100 F.3d 1409 (9th Cir. 1996), which stated that exigent circumstances are situations where a reasonable person would believe that the search or seizure would be necessary to prevent the destruction of relevant evidence. The exigency only has to be “mild” if the search does not involve destruction of property. Further, the gravity of the offense is important in considering whether an exigent circumstance exists. In the case at hand the officers knew the information contained in the pager could be beneficial to their case. The officers also reasonably believed that the information they needed could be lost forever if the pager’s battery went dead or another number came in and deleted the current numbers in the pager’s memory. It was the court’s opinion that this met the definition of a mild exigency and since the charges against Romero-Garcia were very serious the search was justified under the exigency exception to the warrant requirement.

Adam McKee