

3)

1. How the court should rule on suppression motions as to a, b, and c?

Standing

In order to have standing to suppress items, a defendant must have a person interest in the property.

Here, Delia is motioning to suppress her own statements (made by her) , as well as items retrieved from her home, and she would thus have standing to move for suppression.

Delia has standing for the motion.

4th amendment

The fourth amendment applicable to the states via the 14th amendment doctrine of incorporation, protects against unlawful searches and seizures where there is an expectation of privacy. In order to make searches or seizures, law enforcement is required to obtain a valid warrant, signed by a judge, after turning over a affidavit showing there is probable cause to make the search or seizure. Where the probable cause is obtained by an informant, the reliability of the informant must be determined. Probable cause requires that the officers have an objective reasonable belief that a crime has or is being committed. In this case officers would have to show that the have a reasonable belief that Delia is the coin robber.

Here, police obtained an anonymous email indicating that Delia was the coin thief. In conducting further research as to validity of the information, Detective (Det.) Fong followed Delia. Since, Delia was in public, she has no expectation of privacy and no warrant was needed to follow her.

a. "I have a set of 'hot' Roman coins for sale..."

Delia then made a phone call on a payphone that was not in a booth, again, where she would have expectation of privacy, and thus no warrant would be required. During the phone call Det. Fong heard Delia make the statement "I have a set of 'hot' roman coins for sale that need to go to a discreet collector. I will call you back at 9:00pm tonight."

Since Delia was out in public and using a payphone with no booth, she had no expectation of privacy, no warrant was required, and the statement **will not be suppressed**.

b. "Find, call your buyer..."

Use of the "song bird microphone"

The use of technology or items to enhance the hearing, constitutes a seizure. However, in this case, Det. Fong was using technology that is readily available to the public, he purchased in a pet store. The court would find that the use of such a device would not constitute a seizure, and no warrant would be required just because Det. Fong used the song bird microphone.

The deck

Det. Fong gained access to Nell's deck, under false pretenses, but that would not affect the admissibility of the Delia's statements.

Det. Fong told Nell, that his deck was needed in order to investigate a terrorist plot and that "lives are at stake," none of which are true. In the event that Delia had not been in public place with no expectation of privacy, this may have affected the outcome of a suppression hearing, however, there is a **warrant exception for** where information would have been **inevitably found**.

Here, even a warrant would have been required to hear Delia's statement from Nell's deck, it could have been heard from a public street, and thus inevitably found.

Same payphone

As mentioned above, where there is no expectation of privacy, there is no warrant requirement. The fact that Delia against used a public payphone where there was no booth, means that she no expectation of privacy under the 4th amendment, and no warrant was required.

Even though the microphone was used to hear the statement "fine, call your buyer and let me know if we have a deal or not for the hot coins." would have still been heard if Det. Fong was on the public street. **No warrant was required.**

The statement will not likely be suppressed.

c. The Roman Coins

The roman coins were found in a search of Delia's home. Delia has a reasonable expectation of privacy in her home. Thus a warrant would be required for the search of her home.

As stated above a valid warrant must be approved and signed by a judge after a showing a probable cause to search a location. Based on the above conversations, as well as the information from the informant, which was now confirmed to be reliable, Det. Fong put all the

information into an affidavit along with the places to be searched and items to be seized, for a search warrant, for Delia's house, which was granted and signed by a judge.

A valid warrant was obtained and signed by a judge in order to search Delia's house for the roman coins.

Since there was a valid warrant, which was presumably validly executed, Delia would not be successful in her argument to suppress the coins. The coins were obtained under a valid search warrant.

The coins will not be suppressed.

2. Whether Delia can be convicted of robbery?

In order to be convicted for robbery there must have been (1) a taking of the property of another (2) through force or fear.

Here, Delia entered the shop with a toy gun which appeared to be a real gun, pointed it at Oscar, the owner of a coin shop, and out fear of being shot, Oscar gave Delia a valuable set of Roman coins. It is irrelevant that Delia could not have actually shot Oscar, so long as he was fearful, the element of force or fear is met, and a robbery has occurred.

Delia obtained the coins through fear, it was Oscar's fear of being shot they gave Delia the possession of the coins, which were Oscar's and not Delias.

Delia could be found guilty of robbery.

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