

Commonwealth of Kentucky

Court of Appeals

NO. 2016-CA-001248-MR

ANTHONY DWAIN CASTLE

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE KIMBERLY N. BUNNELL, JUDGE
ACTION NO. 15-CR-00830

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: ACREE, MAZE, AND NICKELL, JUDGES.

MAZE, JUDGE: Anthony Dwain Castle appeals from a judgment of conviction by a Fayette Circuit Court following a conditional guilty plea to one count of manufacturing methamphetamine, first offense. He contends that the trial court erred by failing to suppress evidence seized during a warrantless search of his

motel room. We find that the suspected presence of a methamphetamine lab created an exigent circumstance, and therefore affirm.

Background

On June 21, 2015, there was an anonymous tip received that an individual in Days Motel in Lexington, Kentucky was manufacturing methamphetamine. The Lexington Fire Department was dispatched to the motel and arrived before police. Upon arriving, the firefighters smelled what they believed to possibly be natural gas. The firefighters used a gas-reading tool which will alert to possible combustible gasses and give readings pertaining to carbon monoxide and oxygen. The tool alerted to two rooms at the motel, Room 46 and Room 52. The firefighters knocked on the door of Room 52 and discovered a woman who had recently sprayed a significant amount of air freshener, which accounted for the reading. The firefighters then approached Room 46. They entered Room 46, without force, and in plain view they noticed materials that could possibly be used for manufacturing methamphetamine. The firefighters immediately left the room, as they are trained to identify methamphetamine labs but not to handle them. They then alerted the police, who had since arrived on scene, to what they saw.

The police had arrived earlier. While the firefighters were checking for gas readings, the police talked with the motel employee who told them that it was believed someone in Room 46 was making methamphetamine. The police then went to Room 46 and knocked on the door. Castle opened the door but exited

the room and closed the door behind him to talk to police. The officer noticed a gas smell and asked Castle for consent to search his room. Castle refused consent.

After the firefighters informed the police of what they saw Castle was placed under arrest. The manager of the motel executed a form giving police consent to search the room. He also testified that he gave Castle a document evicting him from the room. The legality of this “eviction” is questionable, as Castle had an agreement to rent the room for one week. The legality of the eviction, however, is not determinative.

There were two hearings held on Castle’s motion to suppress evidence of the warrantless search. At the first hearing, the court set a second hearing to focus on whether consent had been obtained from the motel management, and whether that consent was valid to excuse a search warrant. At the second hearing, the Commonwealth argued that the search of the room was valid on three grounds: (1) consent by the manager; (2) the plain view doctrine; and (3) exigent circumstances. The trial court denied the motion and ultimately found that exigent circumstances existed to justify the warrantless search due to the inherent dangers of methamphetamine labs. The trial court also found that under the plain view exception, the search would also be constitutional due to the firefighters seeing the methamphetamine making materials. The trial court also noted that the officer was relying on a good faith belief that the motel manager was able to give consent for the search, but regardless, the search was constitutional due to exigent circumstances. This appeal follows.

Standard of Review

RCr 8.27 sets out the procedure for conducting a suppression hearing. When the trial court conducts a hearing, our standard of review is two-fold. “First, the factual findings of the court are conclusive if they are supported by substantial evidence” and second, this Court conducts “a *de novo* review to determine whether the [trial] court’s decision is correct as a matter of law.” *Stewart v. Commonwealth*, 44 S.W.3d 376, 380 (Ky. App. 2000), citing *Adcock v. Commonwealth*, 967 S.W.2d 6, 8 (Ky. 1998).

As a general rule, warrantless searches are unreasonable *per se*, “subject only to a few specifically established and well-delineated exceptions.” *Helphenstine v. Commonwealth*, 423 S.W.3d 708, 714 (Ky. 2014), quoting *Katz v. United States*, 389 U.S. 347, 88 S. Ct. 507, 19 L. Ed. 2d 576 (1967).

Analysis

On appeal, Castle, through counsel, contends that the trial court erred in denying his motion to suppress evidence obtained in the warrantless search of his motel room. He first argues that the fire department’s entry was unconstitutional. He also argues that the plain view exception does not apply because the firefighters did not have a valid basis to enter the room. He further argues that the police were not justified in relying on the consent from the hotel manager, and finally, that the police’s entry was not justified by exigent circumstances. We find that the warrantless search was constitutional due to exigent circumstances, and therefore affirm.

The Kentucky Supreme Court has held that a methamphetamine lab can meet the exigent circumstance exception to the warrantless searches rule. *Pate v. Commonwealth*, 243 S.W.3d 327, 331 (Ky. 2007). In *Pate*, an officer was attempting to conduct an arrest warrant when he noticed methamphetamine making equipment. The wife of the Appellant gave the officer permission to enter the home and he found more methamphetamine equipment, which was seized without a warrant. There, the Court explained that,

exigent circumstances did exist to justify the warrantless seizure of the equipment in Appellant's apartment. Another exception to the warrant requirement arises when, considering the totality of the circumstances, an officer reasonably believes that an immediate search or seizure is necessary in order to avoid a 'risk of danger to police or others'.

Id., quoting *United States v. Atchley*, 474 F.3d 840, 850 (6th Cir. 2007).

This line of reasoning is supported by federal circuit cases which recognize the unique dangers posed by methamphetamine labs. *Id.*; See *United States v. Layne*, 324 F.3d 464, 470-71 (6th Cir. 2003); *United States v. Spinelli*, 848 F.2d 26, 30 (2^d Cir. 1988); *United States v. Rhiger*, 315 F.3d 1283, 1290-91 (10th Cir. 2003).

Here, the fire department and police were responding to an anonymous call about an active methamphetamine lab at a motel. The fire department arrived and began checking for a gas leak, as that can sometimes mistakenly lead people to believe there is a methamphetamine lab. The police, after talking with management, knew that the suspected lab was in Room 46.

While a warrant is always preferred, the police were acting under an exigent circumstance which they believed required immediate action.

The trial court's findings of fact regarding the firefighters and police, as well as the potential danger of the methamphetamine lab was supported by substantial evidence in the trial testimony. In light of these findings, the trial court's application of the exigent circumstance exception was correct as a matter of law. The other arguments raised by Castle are therefore moot and will not be discussed.

Conclusion

For the reasons discussed above, we affirm.

ALL CONCUR.

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