

ALBUQUERQUE CRIMINAL LAWYER BLOG

PUBLISHED BY
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ATTORNEYS AT LAW

August 2, 2010

Expansion of Police Investigation Under the 4th Amendment in New Mexico

The New Mexico Court of Appeals addressed 4th Amendment search & seizure issues in *State v. Jose Manuel Martinez*. The case involved the expansion of an investigation of an felony aggravated battery case to the detention of the defendant until a canine unit could be called to the scene for a search of the defendant's car.

The defendant was identified as the perpetrator in an aggravated battery where the alleged victim had suffered serious injuries and coma. The police officers went to the location of the alleged incident where they found a number of individuals including the defendant. The officers smelled marijuana in the residence and asked the occupants to step outside. The officers conducted a walk through search but found no evidence of drugs or weapons.

Despite the apparent lack of any evidence of a crime at the scene, the officers then asked if the defendant had any weapons in his car. The defendant answered that all he had in his car was a crowbar. The officer asked to search the car. Defendant refused the search stating that he would retrieve the crowbar for the officer. The officer then detained the defendant calling in the canine unit. Upon searching the vehicle, the officers found two bags containing cocaine, a digital scale, and rolling papers resulting in charges of trafficking a controlled substance and possession of drug paraphernalia.

The question was whether the expansion of the investigation under these circumstances was reasonable and constitutional under the 4th Amendment. The Court of Appeals found that the expansion was reasonable thereby denying the defendant's motion for suppression of the cocaine and paraphernalia.

The court stated, "An officer may expand the scope of an investigatory stop if the officer has reasonable suspicion that other criminal activity is taking or has taken place... If evidence of another crime surfaces during a routine investigatory stop, the officer may proceed in a reasonable manner to investigate." The court was quite generous toward the investigating officers in allowing for the search on these grounds. The Court stated that the defendant's admission that he had a crowbar, but refusal to allow the search of his vehicle, was an indication of other criminal activity sufficient to justify the detention of the defendant until the canine unit arrived, and the search of the defendant's car.

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In light of the customary deference to the 4th Amendment and the expansive protections against unlawful search and seizure under New Mexico law, the outcome is somewhat surprising. The case seems like a good candidate for further appeal to the New Mexico Supreme Court where there may be a different outcome.

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