

Particularity Protects: Seizure-Only Authorization Can't Justify Forensic Search in *United States v. Ray*

Description

The United States Court of Appeals for the Fourth Circuit recently rendered a ruling in *United States v. Ray*, a case that stemmed from an investigation looking into Joshua Ray, a member of the United States Navy. The Court considered the boundaries of military searches and the limits of the good faith exception when law enforcement exceeds the scope of a valid command authorization for search and seizure.

Factual Background

This case originated when the Naval Criminal Investigative Service received credible information that Officer Joshua Ray had sexually assaulted an eleven-year-old autistic boy. In response, NCIS special agents initiated a formal investigation. The lead agent conducted a detailed interview of the alleged victim. After interviewing the boy, an NCIS special agent prepared a command authorization for a search and seizure (CASS), the military equivalent to a search warrant. Key to this case is the fact that the CASS only authorized NCIS to search Ray's person and to seize his cell phone. The agent also drafted an affidavit in support of the CASS, which included a narrative document outlining the factual basis for probable cause. Although this document requested permission to search Ray's cell phone, the CASS itself did not authorize a search of the phone, nor did it incorporate the document by reference. Despite this, the commanding officer signed the CASS on October 12, 2022, the NCIS agent executed the authorization by handcuffing Ray, patting him down for weapons, and retrieving his cell phone from his person. Following the seizure, NCIS personnel transported Ray's phone to a naval digital forensics laboratory. There, trained examiners conducted a thorough forensic analysis of the device, unlocking it and searching its digital contents. During the examination, they uncovered images and videos consistent with child sexual abuse material.

Based on this evidence, the government charged Ray under multiple federal statutes, including possession and distribution of child pornography. Ray filed a motion to suppress all evidence seized from the search of his cell phone pursuant to the CASS, arguing that the search violated the Fourth Amendment because the warrant did not authorize the NCIS to search his phone. Citing the requirements of the Fourth Amendment, Ray argued that any search beyond what the CASS expressly permitted violated his constitutional rights, and that any fruits of that unlawful search were subject to suppression. The government argued that despite this, the search was justified under the good faith exception. The district court granted the defendant's motion to suppress and held that, because the plain language of the CASS did not authorize the forensic search of Ray's cell phone, the subsequent digital examination exceeded the scope of the command authorization and violated the Fourth Amendment. The Government disagreed, and appealed to the Fourth Circuit for review, arguing that the search was justified pursuant to the good faith exception.

United States Court of Appeals for the Fourth Circuit

On appeal to the Fourth Circuit, the Court affirmed the lower court's decision finding in favor of the defendant's suppression motion. The government had conceded the following: (1) the warrant did not authorize the NCIS to search the defendant's phone, (2) the NCIS had not received verbal authorization to search the defendant's phone, and (3) the warrant did not incorporate an affidavit that requested authorization to search the defendant's phone. Despite this, relying on *Maryland v. Garrison*, 480 U.S. 79 (1987), the Government argued that the good faith exception applies even in this context.

First, the Court addressed the government's argument that claimed that the CASS was deficient for a lack of particularity and explained that the Government may not rely on the good faith exception because the warrant was not deficient. Here, the warrant did not authorize the NCIS to search the defendant's cell phone. The CASS was unambiguous in its scope, as it plainly authorized the search of Ray, the seizure of his phone, and nothing more. To read a Fourth Amendment particularity deficiency into the CASS on this record, all to access the good faith exception, would be contrary to the purpose of the Fourth Amendment's particularity requirement. Citing Supreme Court precedent, the Court explained that the historical purpose of the particularity requirement is to prevent "exploratory rummaging" by government officers. Based on this principle, the Court refused to find a particularity error in this case, because doing so would enable that very conduct by the Government. Per the Government's theory, any warrant that does not authorize a search of a particular object or person is thereby deficient for lack of particularity. To accept that premise and use it as a steppingstone to the *Leon* good faith exception, would allow unlimited "exploratory rummaging" at odds with the Fourth Amendment.

Next, the Court addressed *Maryland v. Garrison*, where officers obtained a warrant, they reasonably believed covered a single third-floor apartment. When they later discovered the floor was divided into two units and found contraband in the unintended apartment, the Supreme Court held the warrant valid and found that the officers' mistake in execution was "objectively understandable and reasonable." The Circuit explained that this was not an application of *Leon*'s good-faith exception, because the warrant in *Garrison* was valid, though later found to be overbroad. Despite this, the officers' obtainment and execution of the warrant was reasonable, and the good faith exception did not apply because the warrant lacked any deficiency. Contrasting that case with the facts here, the Fourth Circuit explained that unlike the warrant in *Garrison*, the CASS was unambiguous in its scope: it plainly authorized the NCIS to search the defendant's person for his phone, to seize that phone, and nothing more. Because of this, Special Agent Smith cannot be said to have acted reasonably in the execution of the CASS in this case. The court reasoned that the fact that the agent themselves had drafted the attachment requesting search power, made this even more unreasonableness: the agent knew or should have known that the CASS did not include the necessary language. As a result, the Fourth Circuit held that the good faith exception did not apply to this scenario. Where, as here, the warrant's limitations are unambiguous and officers knowingly disregard them, *Leon* offers no protection. Because the search exceeded the clear bounds of the CASS, the evidence required suppressed. Under these circumstances, the court concluded that "a lack of competence in this instance cannot be converted into good faith;" therefore, the good faith exception did not apply because the CASS was not deficient but, instead, law enforcement was.

United States v. Ray, No. 24-4024 (4th Cir. 2025)

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