One of These Things is Not Like the Other: Parolee Rights & Warrantless Searches

Description

Todayâ??s legal update comes to us from the Seventh Circuit and addresses the question of parolee rights. Many parolee agreements state that if a parolee violates his or her release agreement, officers have a right to search their belongings. This case also addresses several important court cases regarding cell phones, search warrants and parolee rights.

The first case used in the courtâ??s argument by the parolee is *Riley v. California*. In *Riley*, SCOTUS argued that searching an arresteeâ??s phone without a warrant when they are under arrest violates their Fourth Amendment Rights. According to SCOTUS, the warrantless search exception following an arrest exists for the purposes of protecting officer safety and preserving evidence, neither of which is at issue in the search of digital data. The digital data cannot be used as a weapon to harm an arresting officer, and police officers can preserve evidence while awaiting a warrant by disconnecting the phone from the network and placing the phone in a â??Faraday bag.â?•

The Seventh Circuit then brought up two additional cases, *United States v. Knights* and *Samson v. California*. In these cases, SCOTUS found that it is legal to permit warrantless searches with less than probable cause for parolees and probationers. Under *Knights* and *Samson*, courts must balance the stateâ??s interest in supervising parolees against a paroleeâ??s privacy expectations.

Letâ??s address the facts of this case and see how these cases were fully applied.

FACTS

In 2018, Henry Wood was released on parole from Indiana state prison for methamphetamine-related offenses. Woodâ??s parole release agreement provided, among other things, that property under his control was subject to reasonable searches by his supervising officer if there was reasonable suspicion to believe that he was violating a condition of his parole.

Three months later, Wood violated his parole by failing to report to his supervising officer and a warrant was issued for his arrest. Parole agents arrested Wood at his home and, while they were searching him, an agent noticed Wood repeatedly turning toward his cellphone, which was lying on a â??junk pile.â?• When the agent picked up the cellphone, Wood ordered the agent to turn it off. Instead, the agent handed Woodâ??s phone to another agent who felt something â??lumpyâ?• on the back of the cellphone. The agent removed the back cover and found a packet of a substance that he believed to be methamphetamine. Wood admitted the substance was methamphetamine. The agents charged Wood with possession of methamphetamine and seized his cell phone as evidence.

Seven days after Woodâ??s arrest, an investigator for the Indiana Department of Correction performed a warrantless search of Woodâ??s cellphone by extracting its stored data. This search revealed child pornography. The investigator forwarded this information to a special agent of the Federal Bureau of Investigation, who obtained a search-and-seizure warrant for Woodâ??s cellphone and its contents.

The government subsequently charged Wood with child-pornography-related offenses.

Wood filed a motion to suppress the data extracted from his cellphone. Wood argued that the state investigatorâ??s warrantless search of his cellphone violated *Riley v. California*. The district court disagreed and denied the motion. Wood appealed, arguing that the Supreme Courtâ??s holding in *Riley* should apply to parolees.

SEVENTH CIRCUIT COURT OPINION

The Seventh Circuit Court of Appeals recognized that â??given the context-specific nature of the Fourth Amendment, *Riley* is not readily transferable to scenarios other than the one it addressed,â?• and Riley did not involve the search of a paroleeâ??s cell phone. The court also recognized that it has declined to apply *Riley* in two other contexts: consent searches and border searches. The court also recognized that *Riley* has never extended to parolees; in fact, the court noted that the Eighth, Ninth, and Tenth Circuits have held that *Riley* does not apply. The Seventh Circuit also declined to extend *Riley* to parolees.

The court found that the Supreme Courtâ??s decisions in *United States v. Knights* and *Samson v. California*, which permit warrantless searches with less than probable cause for parolees and probationers, applied to the warrantless search of Woodâ??s cellphone. In this case, the court recognized that Indiana had an â??overwhelming interest in supervising parolees,â?• and that its goals of â??reducing recidivismâ?• and â??promoting reintegration . . . warrant privacy intrusionsâ?• that would not otherwise be permitted under the Fourth Amendment. The court then commented that, while cellphones can hold â??vast quantities of personal informationâ?•, they do not automatically receive heightened protection under *Knights* and *Samson*. The court held that Indianaâ??s strong governmental interest outweighed Woodâ??s diminished expectation of privacy; therefore, the warrantless search of Woodâ??s cellphone was reasonable.

TAKEAWAYS

It is important to note that the Eighth, Ninth, and Tenth Circuits have held similar opinions in other cases when faced with this issue. When handling parolees there are very different protections in place than there are with a law-abiding citizen under the Fourth Amendment. As always, cell phones and computers have made this a bit more complicated, but the Seventh, Eighth, Ninth, and Tenth Circuits are all pretty much in agreement that the stateâ??s interest outweighs that of a paroleeâ??s rights when it comes to warrantless searches of cell phones.

United States v. Wood, 2021 U.S. App. LEXIS 31731 (7th Cir. IL Oct. 21, 2021)

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