

Sweeps, Safety, and Sentencing: The Validity of Surveillance and Suppression in United States v. Everett

Description

In *United States v. Everett*, the Fourth Circuit considered the actions of a defendant, following his involvement in drug distribution and charges for firearm offenses. The defendant, Everett, moved to suppress evidence obtained during his arrest. The defendant argued that officers violated his Fourth Amendment rights to be free from unreasonable searches and seizures when officers conducted a warrantless protective sweep of his home. In rejecting Everett's suppression motion, the district court ruled that the officers satisfied the "protective sweep" exception to the search-warrant mandate of the Fourth Amendment. After his motion to suppress the evidence was unsuccessful, he was convicted on all counts and received a lengthy prison sentence of 480 months. He looked to the Fourth Circuit to challenge the denial of his suppression motion.

On appeal, Everett challenged the protective sweep as unconstitutional under the Fourth Amendment, arguing that the evidence obtained from what he deemed an unconstitutional search should have been suppressed. The Fourth Circuit disagreed and affirmed the denial of Everett's motion to suppress, finding that the protective sweep—and by extension, the evidence found during that sweep—was consistent with Fourth Amendment principles.

Around 2016–2017, law enforcement officers in Fayetteville, North Carolina, began investigating an expansive drug–trafficking operation. The defendant in this case, Everett, became involved in the trafficking scheme in 2016, and his criminal activities spanned from selling controlled substances, including marijuana, cocaine, and THC wax, which escalated to a large-scale operation that involved multiple coconspirators, two specifically named Godfrey and Murray. The scale of Everett's dealings expanded over time, with transactions increasing from daily purchases to weekly bulk buys, marking a significant escalation in the drug distribution network. The investigation into Everett's operations led to the discovery of a "stash house" at the Legacy apartment complex, which was used by Everett and Murray for drug storage and distribution. The seizure of substantial quantities of drugs, cash, and firearms at different locations linked to Everett and his associates provided officers with a clear picture of just how expansive the scope of their network was. The investigation continued, and in 2018, surveillance led officers to discover Everett's new operations base, located at the Addison Ridge Complex. This apartment was leased to Everett's co-defendant, Alvin Davis. Complaints about marijuana odors and observations of Everett's behavior raised suspicions, leading to the surveillance and eventual search of the apartment. After receiving tips from known associates of the defendant, and conducting surveillance of the unit, FPD officers eventually followed and pulled over Alvin Davis for a traffic violation. FPD officers utilized a drug canine for an exterior sniff of the vehicle, and the canine alerted to the presence of drugs. In searching Davis's Cadillac, the officers found two vacuum-sealed bags of marijuana, along with mason jars full of marijuana, cocaine hidden in a thermos bottle, a digital scale, and a loaded Smith & Wesson, plus ammunition magazines. The officers then went to the front door of Addison Ridge #5, where the canine again alerted. This sweep, motivated by the officers' concern for their safety and the presence of potential threats within the house, led to the discovery of more illegal items. As a result, the FPD officers—later that day—sought and obtained a state court

search warrant for Addison Ridge #5. The search of the unit turned over drugs, cash, and firearms. After the defendant was charged, he moved to suppress the evidence that was discovered through the protective sweep.

The Supreme Court has long held that the core of the Fourth Amendment is the right of an individual to retreat into their home and be free from unreasonable government intrusion. However, as we know from *Katz v. United States*, warrantless searches of a residence are per se unreasonable under the Fourth Amendment—subject only to a few specifically established exceptions.¹ Under *Maryland v. Buie*, law enforcement is justified to perform a quick and limited search of a residence immediately following an arrest to ensure there are no other individuals present who might pose a danger. This is particularly relevant considering that officers in this situation are typically operating in environments that are not fully under their control. The protective sweep exception to the warrant requirement is permissible when officers rely on “articulable facts which, taken together with the rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the arrest scene.” The protective sweep exception requires more than a generalized worry of danger, and as established in *United States v. Jones*, “a lack of information cannot provide an articulable basis to justify a protective sweep.”

On appeal, the key question for the Fourth Circuit was whether officers violated the requirements of the “Protective Sweep” exception to the warrant requirement of the Fourth Amendment. The Fourth Circuit affirmed the district court’s denial of Everett’s motion to suppress. The circumstances in Everett’s case justified a reasonably prudent officer in conducting a protective sweep of the residence to ensure the safety of himself and others. The Court further explained that the officers had ample probable cause and could have secured a search warrant for the Reagan Residence earlier, when they obtained the arrest warrant for Everett. But to deprive the officers of the right to conduct a protective sweep, in the circumstances existing at the residence, would undermine officer safety. In its decision, the Court began by addressing each factor that contributed to the justification for the officers’ invocation of the protective sweep exception to the warrant requirement. First, the officers knew about Everett’s involvement in a large-scale drug operation. Courts have consistently recognized the well-understood notion within law enforcement that drug trafficking often coexists with the presence of firearms, this underscored the potential risks the officers could have faced in this type of encounter. Here, the FPD had been “climbing the ladder” and were up to Everett. When Everett’s known associates were arrested, firearms were either found on their persons or seized nearby. This awareness suggested a heightened likelihood that the officers would have potentially encountered armed individuals. The discovery of a firearm at Everett’s former home further raised suspicions about the potential for firearms at this new residence. Next, surveillance cameras installed around the property implied that those inside were possibly monitoring police presence, indicating a level of preparedness for confrontation. Additionally, the unexpected encounter with an individual inside the residence when officers first attempted to enter increased the officers’ concerns about encountering other unknown, potentially dangerous persons. The Court highlighted that a protective sweep is legally supported when facts lead a reasonably prudent officer to believe there was a threat present.

In Everett’s case, the combination of his drug trafficking activities, the prior discovery of firearms, the strategic use of surveillance, and the surprise presence of an additional person inside the residence collectively justified the protective sweep. Here, the protective sweep was brief, lasting only three-and-a-half minutes, and focused solely on locations where someone could reasonably hide, evidencing the targeted and minimally intrusive approach to the sweep. The Court’s decision affirmed that the officers’

conduct of the protective sweep was justified and proportionate to the perceived threat, grounded in the officers' specific observations and the present facts during the time of the sweep.

United States v. Everett reinforces the balance between ensuring officer safety and adhering to constitutional protections against unreasonable searches, offering a clear example of the considerations that guide our executions of protective sweeps.

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