

Writing Assignment 2

Zachary Six

Old Dominion University

CRJS 406

Professor Gulland

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To: Acting Supervisory Special Agent, Mark Moronovich

From: Zachary Six

Subject: Search and Seizure of suspect's Chesapeake Office

Constitutionality of Executed Search Warrant

The search warrant obtained by SA Dumas can be trusted to be legitimate in the scope and process of obtaining the warrant. The warrant specifically states for a lawful search and seizure of all desktops, laptops, and removable storage devices. It is also worth noting that the warrant specifically does not state for a search and seizure of cell phones. Due to the small size of removable storage devices and some laptops, the scope allows for opening containers that may be used to store such small devices to uncover evidence. The warrant refrains from stating that the thumb drives must be labeled with specific markings to conclude probable cause for seizure of the device. The removable storage devices found were labeled with "Cocaine Shipping Data" and "Christmas 2023 Family photos". These devices held important shipping information and personnel involved on the former drive and actual family photos from Christmas 2023 on the latter drive. The SA involved in the case had every right to seize these drives as criminals may not obviously label their devices with illegal activities. As with the picture depicting child pornography, the SA holds the right to seize this evidence as under the Plain View Doctrine, the SA was acting within scope of the warrant when he came across the image searching a drawer. Because this document contained federally illegal activities, the evidence can be seized and brought to life in court for additional charges. From an investigative standpoint, the SA had

performed his duties as expected and within the scope of the warrant as stated by the Plain View Doctrine.

Lawfulness of Warrantless Search and Seizure

During the investigation, Calderone exclaimed to SA Dumas that Calderone would have his own phone “wiped in minutes.” Acting under pressure and with fear of lost evidence, SA Dumas seized and downloaded all contents of the phone to be later searched at the precinct. As previously stated, the warrant does not allow for search and seizures of cell phones in this investigation. Considering this information, it can be stated that this search and seizure of Calderone’s cell phone is unconstitutional. If the warrant had stated search and seizure of cell phones were permitted and, while in possession of the phone Calderone made his statement, then an “exigent circumstance” would apply, allowing SA Dumas to begin with downloading the data from the phone. In the Supreme Court Case *Riley v. California*, the suspect had his cellphone on his person where LEO officers seized and searched this device subject to arrest leading to a mass of evidence against the suspect. In this case, the court ruled that any warrantless searches of cell phones are considered unconstitutional, and LEO must obtain a warrant to lawfully search a suspect’s cell phone.

Analysis of plan to proceed with Charges

The process in which SA Dumas uses a criminal complaint as a basis for arrest of the suspect without incident is entirely flawed and unconstitutional. Due to the nature of a potential felony regarding the drug network and child pornography charge, this evidence must be brought before a Grand Jury to determine if the suspect should be given an indictment or formal charge of his crimes. The complaint itself does not provide enough basis for charging an individual and,

thus, SA Dumas is incorrect in making this statement. From the day the SA obtained the criminal complaint, there are 30 days to take the complaint and gathered evidence to a Grand Jury where they will decide if the suspect is guilty of an indictment. Using the legitimate evidence found in the investigation, it is advised to move forward with the charges of drug trafficking and possession of child pornography. While on one hand the only one of the thumb drives contained information, it was within the scope of the warrant to seize any removable storage devices found that could be search later which led to evidence being uncovered. The evidence involving child pornography stands true as the Plain View Doctrine allows for evidence of crimes to be seized if they are within view from a lawful viewpoint and obviously apparent to be illegal. Because of the obvious nature of the explicit photograph, this charge could be added on to the drug trafficking charges already present. Any evidence relating to the seizure of the cell phone will be inadmissible in court as the phone was unlawfully searched and seized.