

COURT OF APPEALS OF MARYLAND

Martini v. State, 200 Md. 609

92 A.2d 456 (1952) · No. No. 10, October Term, 1952 · Decided October 10, 2001

SUMMARY

The Maryland Court of Appeals held that a search warrant could remain valid for searching an automobile even if its description of a person to be searched was inadequate. Lottery paraphernalia found in the automobile and an apparent lottery slip observed in the defendant's hand were lawfully seized and properly admitted, so the conviction was affirmed.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Markell, C.J.; Delaplaine, J.; Collins, J.; Henderson, J.
JURISDICTION	Maryland
DECIDED	October 10, 2001
DOCKET	No. 10, October Term, 1952
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of conviction for selling and possessing lottery tickets and other violations of the lottery laws following a bench trial.
STANDARD OF REVIEW	In a nonjury case, appellate review is broader than in a jury case, but factual findings based on witness credibility will not be reversed unless clearly wrong. The court may nevertheless affirm when the judgment is clearly correct and exclusion of a small amount of evidence could not have changed the result.
PRECEDENTIAL VALUE	Published opinion of the Court of Appeals of Maryland
PARTIES	Martini v. State

TOPICS

- search and seizure
- warrant requirement
- suppression of evidence
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal procedure
- evidence
- search and seizure
- appellate procedure
- gambling law

QUESTIONS PRESENTED

1. Whether an allegedly inadequate description of a person in a search warrant invalidated the warrant in its entirety, including the warrant's authorization to search the described automobile.
2. Whether the lottery adding-machine tape taken from Martini's hand and the lottery paraphernalia found in the bag beneath him were lawfully seized during the automobile search.

HOLDINGS

1. Even assuming that the warrant inadequately described the 'white man, about 25 yrs. of age,' the warrant remained valid and enforceable as to the search of the described automobile.
2. The adding-machine tape taken from Martini's hand and the lottery paraphernalia found in the bag beneath him were lawfully seized under the warrant's authorization to search the automobile and for lottery paraphernalia.

KEY QUOTATIONS

“In the instant case we conclude that the warrant can be sustained as to the search of the automobile even though we assume that it is invalid as to “the white man, about 25 yrs. of age.” (612)

“Obviously, execution of a warrant for the search of an automobile cannot lawfully be frustrated by a man or a dozen men sitting on or otherwise concealing contents of the automobile.” (613)

“Even in a non-jury case we cannot reverse a finding of fact, based on credibility of witnesses, unless clearly wrong.” (614)

FACTUAL BACKGROUND

Police executed a warrant authorizing a search of a described automobile and, among other things, the clothing pockets of persons found in or entering the automobile. Martini was seated behind the wheel, held a paper that appeared to be a lottery slip, and attempted to crumple it; officers took it from his hand. Officers also found a brown paper bag beneath him containing lottery slips and cash. The warrant described a person to be arrested or searched as a white man about twenty-five years old, and Martini argued that this description was inadequate.

PROCEDURAL HISTORY

Martini was tried before the court without a jury and convicted of selling and possessing lottery tickets and other lottery-law violations. He objected to the admission of a lottery adding-machine tape taken from his hand and lottery paraphernalia found in a bag beneath him, arguing that the search warrant inadequately described the person to be searched. The Court of Appeals of Maryland affirmed.

DISPOSITION

affirmed

CASES CITED

- Saunders v. State, 199 Md. 568, 87 A.2d 618 (1952)
- Diggins v. State, 198 Md. 504, 84 A.2d 845 (1951)
- Auchincloss v. State, 200 Md. 310, 316, 89 A.2d 605, 607 (1952)
- Ferraro v. State, 200 Md. 274, 279, 89 A.2d 628, 630 (1952)

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