

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

United States of America v. Donald A. Hill

795 F. Supp. 2d 1304 (M.D. Fla. 2011) · No. 2:10-cr-127-FtM-29DNF · Decided June 8, 2011

SUMMARY

The United States District Court for the Middle District of Florida adopted a magistrate judge's report and recommendation and granted Donald A. Hill's motion to suppress. The court held that the officer's initial entry into the screened lanai violated the Fourth Amendment and that observation of child pornography on Hill's computer exceeded the scope of consent because the government failed to establish that the computer screen activated without intentional police conduct.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
WRITING FOR THE COURT	John E. Steele
JURISDICTION	USA
DECIDED	June 8, 2011
DOCKET	2:10-cr-127-FtM-29DNF
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed the magistrate judge's report and recommendation de novo in response to the Government's objections to the recommendation that Hill's motion to suppress be granted.
STANDARD OF REVIEW	The district judge makes a de novo determination of portions of a magistrate judge's report and recommendation to which specific objections are made and reviews legal conclusions de novo. Credibility determinations may not be rejected without personally rehearing disputed testimony.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the district and nonbinding authority outside it.
PARTIES	United States of America v. Donald A. Hill

TOPICS

suppression of evidence

search and seizure

fourth amendment

exclusionary rule

criminal procedure

PRACTICE AREAS

criminal procedure

constitutional criminal procedure

evidence

QUESTIONS PRESENTED

1. Whether the officers' warrantless entry into the screened lanai violated the Fourth Amendment.
2. Whether the deputy's entry into the residence to retrieve clothing and shoes exceeded the scope of Hill's consent.
3. Whether the laptop images were in plain view or instead resulted from an unlawful search exceeding the scope of consent.
4. Whether Deputy Iriarte had sufficient grounds to take Hill for involuntary examination under Florida's Baker Act.
5. Whether evidence, statements, and observations obtained after the unlawful entry should be suppressed under the exclusionary rule.

HOLDINGS

1. The screened lanai was part of the residence or its curtilage and therefore was protected by the Fourth Amendment. Officers may approach areas where the public would reasonably be expected to go for a knock-and-talk, but the Government failed to show that officers first attempted reasonable contact at the front door or otherwise had a basis to enter the rear screened enclosure. The initial entry was unlawful.
2. Deputy Iriarte did not act improperly in taking Hill for involuntary examination under the Baker Act.
3. Hill's consent authorized Deputy Waid to enter the residence to retrieve specified clothing and shoes, but the consent was limited to that purpose and did not authorize an intentional activation or examination of the laptop.
4. The plain-view exception did not apply because the Government failed to establish that the incriminating images became visible without intentional conduct by an officer. The laptop observation constituted a search exceeding the scope of consent and violated the Fourth Amendment.
5. Evidence, statements, and observations obtained after the officers entered the lanai should be suppressed because the Government failed to establish an applicable exception to the exclusionary rule, including good faith, independent source, or inevitable discovery.

KEY QUOTATIONS

"The screened-in lanai area in the back of the house was either a part of the house itself or included in the curtilage of the house, and in either case was within the protections provided by the Fourth Amendment." (1308)

"Therefore, there was a "search" within the meaning of the Fourth Amendment, Arizona v. Hicks, 480 U.S. 321, 324-25, 107 S.Ct. 1149, 94 L.Ed.2d 347 (1987), which exceeded the scope of the consent." (1308)

“Therefore, at best the situation is in equipoise. However it is the Government's burden which has not been met.” (1321)

FACTUAL BACKGROUND

Deputies responding to a possible burglary entered the screened lanai at the rear of Hill's residence without first establishing that they had attempted to contact anyone at the front door. Hill later consented to officers entering the residence to retrieve clothing and shoes while he was being taken for involuntary examination under Florida's Baker Act. During that entry, a deputy observed child-pornography images appear on a laptop that had been in sleep mode, but the evidence established that the screen was highly unlikely to have activated spontaneously and the Government did not prove that no officer intentionally caused it to activate. A later search warrant relied on information obtained during these events.

PROCEDURAL HISTORY

Hill was indicted for possession of material containing visual depictions of a minor engaged in sexually explicit conduct. He moved to suppress evidence, statements, and observations arising from law-enforcement entries onto his property and into his residence. The magistrate judge recommended granting the motion, and the district court adopted the report and recommendation after reviewing the hearing transcript, exhibits, and parties' submissions.

DISPOSITION

other

CASES CITED

- United States v. Powell, 628 F.3d 1254, 1256-58 (11th Cir. 2010)
- United States v. Farias-Gonzalez, 556 F.3d 1181, 1184 n.1 (11th Cir. 2009)
- Jeffrey S. v. State Bd. of Educ. of Ga., 896 F.2d 507, 512 (11th Cir. 1990)
- Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994)
- Coffin v. Brandau, 642 F.3d 999 (11th Cir. 2011)
- Kentucky v. King, 131 S. Ct. 1849, 1856-57, 1862 (2011)
- Arizona v. Hicks, 480 U.S. 321, 324-25 (1987)
- United States v. Knight, 336 F. App'x 900, 904 (11th Cir. 2009)
- United States v. Freire, 710 F.2d 1515, 1519 (11th Cir. 1983)
- Payton v. New York, 445 U.S. 573, 590 (1980)
- United States v. Hatch, 931 F.2d 1478, 1480 (11th Cir. 1991)
- United States v. Dunn, 480 U.S. 294, 300-01 (1987)
- United States v. Taylor, 458 F.3d 1201, 1204 (11th Cir. 2006)
- Coolidge v. New Hampshire, 403 U.S. 443, 465-66 (1971)
- United States v. Tobin, 923 F.2d 1506, 1511 (11th Cir. 1991)

- United States v. Cox, 391 F. App'x 756, 758 (11th Cir. 2010)
- Nail v. Gutierrez, 339 F. App'x 630, 632 (7th Cir. 2009)
- United States v. Daoust, 916 F.2d 757, 758 (1st Cir. 1990)
- United States v. Diaz, 404 F. App'x 381, 382-83 (11th Cir. 2010)
- United States v. Susini, 261 F. App'x 270, 273 (11th Cir. 2008)
- Florida v. Jimeno, 500 U.S. 248, 250 (1991)
- United States v. Rackley, 742 F.2d 1266, 1270-71 (11th Cir. 1984)
- Georgia v. Randolph, 547 U.S. 103, 137 (2006)
- Horton v. California, 496 U.S. 128, 136-37 (1990)
- United States v. Smith, 459 F.3d 1276, 1290 (11th Cir. 2006)
- Hudson v. Michigan, 547 U.S. 586, 591-92 (2006)
- Pennsylvania Bd. of Probation and Parole v. Scott, 524 U.S. 357, 363 (1998)
- United States v. McGough, 412 F.3d 1232, 1240 (11th Cir. 2005)