

## **People v. Oldham**

(May 31, 2000) \_\_ Cal.App.4th \_\_

### **ISSUE**

Did officers reasonably believe that Oldham's father had authority to consent to a search of Oldham's bedroom?

### **FACTS**

Shortly after 6 P.M., San Diego County sheriff's deputies were dispatched to investigate a report of "drug activity" at a certain apartment. When they arrived, they encountered Oldham standing outside the apartment. Oldham said he lived there but refused to consent to a search of the premises.

At about that time, Oldham's father stepped outside and spoke with the deputies. He told them he paid the rent for the two-bedroom apartment and that his son "has been coming and going from the apartment for years." It appears the deputies were also told that Oldham used the master bedroom. When asked if he would consent to a search of the entire apartment for drugs, Oldham's father replied, "Go ahead."

The deputies said they would begin by searching the master bedroom. Oldham said that was *his* bedroom and he wanted to be present during the search. The deputies said okay, having concluded that everything in the bedroom "likely" belonged to Oldham. During the search of the master bedroom, the deputies found "numerous types of drug paraphernalia and a fairly large amount of meth."

### **DISCUSSION**

Oldham contended the drugs and paraphernalia were obtained illegally because his father could not lawfully consent to a search of his bedroom.

The United States Supreme Court has ruled that consent given by someone other than a defendant is valid if officers reasonably believed the consenting person had joint access or control over the place or thing that was searched.<sup>(1)</sup> In interpreting this rule, the Court of Appeal has held that when an adult defendant lives in the home of a parent, the parent may consent to a search of all rooms in the home, including an adult son or daughter's bedroom, unless the son or daughter had *exclusive* control and access to the room.<sup>(2)</sup>

Applying these principles to the facts of the case, the court in *Oldham* ruled it was reasonable for the deputies to believe that Oldham and his father shared access and control of the room and could, therefore, consent to the search. Said the court:

"[T]here was nothing to show Oldham had exclusive control over the bedroom he used or its contents. At most, the evidence showed there was joint control and Father possessed superior control because he had the right to exclude Oldham from the apartment and did so after Oldham's arrest.

Accordingly, the court concluded "it was reasonable for the deputies conducting the search for drugs to rely on father's apparent authority to consent to the search of all the rooms in the apartment and their contents." Oldham's conviction was affirmed.

## DA's COMMENT

Some of the evidence discovered in Oldham's bedroom was found in closed containers; i.e., a fanny pack and two eyeglass cases. As a general rule, a parent does not have authority to consent to a search of closed containers that are under the *exclusive* control of an adult son or daughter.<sup>(3)</sup> It is possible that the fanny pack and eyeglass cases were, in fact, under the exclusive control of Oldham. However, because he failed to raise this issue at the motion to suppress, he could raise it on appeal. Furthermore, it appears he relinquished standing to challenge the search of these items because he told the deputies he owned neither of them; that they probably belonged to a woman who had come to visit his father.<sup>(4)</sup>

(1) See *Illinois v. Rodriguez* (1990) 497 US 177, 181-2; *United States v. Matlock* (1974) 415 US 164, 171, fn.7; *People v. Jacobs* (1987) 43 Cal.3d 472, 481 ["(T)here must be some objective evidence of joint control or access to the places or items to be searched which would indicate that the person authorizing the search has the authority to do so."]; *People v. Jenkins* (2000) 22 Cal.4th 900, 972; *People v. Escudero* (1979) 23 Cal.3d 800, 806; *People v. Wolder* (1970) 4 Cal.App.3d 984, 994.

**NOTE:** There is no requirement that the consenting person must have been *using* the item searched, so long as it reasonably appears the consenting person had joint access or control. See *People v. Jenkins* (2000) 22 Cal.4th 900, 980.

(2) See *People v. Daniels* (1971) 16 Cal.App.3d 36, 44-5. **ALSO SEE** *Bumper v. North Carolina* (1968) 391 US 543, 548, fn.11.

(3) See *People v. Egan* (1967) 250 Cal.App.2d 433; *People v. Daniels* (1971) 16 Cal.App.3d 36, 45.

(4) See *U.S. v. Hawkins* (11th Cir. 1982) 681 F.2d 1343, 1346; *People v. Allen* (1993) 17 Cal.App.4th 1214, 1220; *People v. Dasilva* (1989) 207 Cal.App.3d 43, 48.