



## The legality of inventory searches of an arrestee's personal belongings without booking

July 17, 2024

Robert Phillips

LU Ref# CAC00151

CASE LAW

- Inventory Searches
- Good Faith Searches and Police Department Policy

### RULES

When an individual is lawfully arrested and brought to a police station for booking, the police may conduct an inventory search of that individual's belongings as part of the booking process even though the person is ultimately released without being booked, and even though his belongings are not searched until some hours after his arrest. The only issue in such a case is whether the officer acted in good faith and in substantial compliance with police department policy.

### FACTS

Two Anchorage, Alaska, police officers, responding to a call at around 2:30 a.m. about gunshots being fired at an apartment, encountered defendant Markanthony Sapalasan and another individual walking away from the apartment. Defendant was observed to be carrying a backpack. He also had a semiautomatic pistol visibly sticking out of his front pants pocket. Defendant was therefore detained and searched. The pistol was determined to be loaded, with one round in the chamber and one round missing from the magazine. Arrested and handcuffed, defendant's backpack was retrieved. One of the officers— Officer Tae Yoon— requested and received defendant's permission to search it. Nothing of any significance was found in the backpack, however. Other officers in the meantime found a dead individual in the apartment house with a single gunshot wound. Defendant was therefore transported to the police station where, after being questioned by detectives, was (amazingly) released. While defendant was being interviewed, Officer Yoon (still in possession of defendant's backpack) returned to the field to finish his shift. When he later returned to the station, Officer Yoon finally got around to conducting a detailed inventory search of defendant's backpack, done about six hours after defendant's initial arrest. In this search, the officer found a significant amount of methamphetamine. A search warrant was obtained at around 8:22 a.m. for the purpose of completing the search of the backpack (during which, apparently, nothing else of any evidentiary value was discovered). Defendant was charged in federal court with one count of Possession with the Intent to Distribute Methamphetamine, and one count of Possession of a Firearm in Furtherance of a Drug

Trafficking Crime. (Nothing is mentioned in this case decision about whether there was any evidence of defendant's possible connection to the dead body found at the apartment, so we have to assume that there was not.) Defendant's motion to suppress the methamphetamine was denied by the trial court. Found guilty of all charges, defendant appealed.

#### HELD

The Ninth Circuit Court of Appeals, in a split (2-to-1) decision, affirmed. First, the Court determined that it did not need to decide whether the initial search of the backpack in the field was lawful i.e., was his defendant's valid in that (aside from the fact that nothing was found) even if it was not, the later inventory search of the backpack at the station was, per the majority, lawful. The general rule is simple: When an individual is lawfully brought to a police station for booking into jail, the police may conduct an inventory search of that individual's belongings as part of the booking process. (Citing *Illinois v. Lafayette* (1983) 462 U.S. 640.) Defendant here conceded on appeal that he was lawfully arrested on probable cause, and that it was also lawful to separate him from his backpack while being transported to the station and while he was being questioned. The issue was whether it was lawful to search his backpack some six hours after defendant was arrested, but after he had been released and without having completed the booking process. In *Lafayette*, the Supreme Court held that under the Fourth Amendment, it is reasonable for police to search the personal effects of a person under lawful arrest as part of the routine administrative procedure at a police stationhouse incident to booking and jailing the suspect. (Id., at p. 643.) The Court held that even though defendant, as it later turned out, was never booked (being released after questioning), this fact is irrelevant so long as when first arrested, defendant was lawfully separated from his backpack and booking was intended. It must also be shown that the inventory search as conducted satisfied reasonable police regulations and be administered in good faith. Defendant did not contest Officer Yoon's good faith. So the only issue here was whether the inventory search was in compliance with Anchorage Police Department policy. Noting that even though Officer Yoon failed to conduct the inventory search immediately, as required by Anchorage Police Department policy, the Court held that it was close enough; i.e., that searching the backpack six hours after defendant's arrest constituted substantial compliance, and therefore sufficiently followed Department policy to constitute a lawful inventory search. Lastly, the Court rejected defendant's argument that such a search required that the officer have probable cause to believe the backpack contained sizeable evidence, holding simply that probable cause to search is irrelevant in inventory searches. The trial court, therefore, properly denied defendant's motion to suppress.

#### AUTOR NOTES

The Court declined to discuss the fact that defendant had expressly consented to the search of his backpack upon his initial arrest, which seems to me makes unnecessary all this discussion concerning the legality of a later inventory search. Or, maybe not, depending upon how long that consent to search remained valid, and whether his subsequent release from custody cut off the legal effectiveness of his consent. But either way, it's nice to have an appellate court decision discussing the law on inventory searches of an arrestee's backpack, and how his release without booking might affect the applicability of this rule. It's also interesting to note, however, that there is no discussion about what the law might be had defendant, upon his release without being booked, asked for the return of his backpack. The dissenting opinion notes that *Illinois v. Lafayette*, cited by the majority, involved a situation where the defendant was in fact booked. In this current case, the investigating detectives apparently decided upon interviewing Sapalasan that there was insufficient evidence to connect him to the murder of the person found in the apartment house. The dissent argues that because defendant was never booked, but instead released, the law on inventory searches does not apply; an argument that makes a lot of sense although directly contrary to the rule as set out by the majority opinion. Per the dissent: Neither the government nor the majority have cited a published case upholding a stationhouse inventory search of someone's belongings who was not also in the process of being booked and incarcerated. To the contrary, citing Alaskan state law, the dissent makes the very plausible argument that absent the defendant actually being booked, an inventory search of his backpack was illegal and should

have instead been returned to him upon his release from custody whether or not he asked for its return. I personally found the dissent to provide the stronger argument, making it all the more important to consider the legal effect of the defendant's earlier verbal consent (i.e., was it made freely and voluntarily, and how long did it remain legally effective?). This decision, therefore, should perhaps be reconsidered en banc (i.e., by an eleven-justice panel) and/or taken up to the U.S. Supreme Court.

#### Author Notes

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Court Case Name

United States v. Sapalasan (9th Cir. Apr. 1, 2024) 97 F.4th 657

[Link](#)

## Comments

Submitted by Miranda\_Carvalho on Wed, 08/07/2024 - 09:51

I had to read this three times to figure out how he wasn't booked on a murder charge. I don't know the specifics or if they actually booked someone else for the murder. That's also a lot of meth to overlook, unless there was another emergent call or calls happening directly after for him to hold on to his backpack for so long. Lots of issues here.

Submitted by Robert Phillips on Thu, 08/08/2024 - 07:44

Miranda: The Court didn't explain in the case decision why he wasn't booked. The reason, while it would have been nice to know for those with inquisitive minds (such as yourself), wasn't relative to the issues in the case. So we just have to assume that additional information developed while he was being detained that indicated to the officers that they lacked the necessary probable cause.