

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2021-KK-00349

VS.

HERMAN RANEY

IN RE: Herman Raney - Applicant Defendant; Applying For Supervisory Writ,
Parish of East Baton Rouge, 19th Judicial District Court Number(s) 19-07216, Court
of Appeal, First Circuit, Number(s) 2020 KW 1283;

May 25, 2021

Writ application granted. See per curiam.

JLW

JDH

JTG

PDG

Crichton, J., would deny.

Crain, J., would deny.

McCallum, J., would deny.

Supreme Court of Louisiana

May 25, 2021



Chief Deputy Clerk of Court
For the Court

05/25/21

SUPREME COURT OF LOUISIANA

No. 2021-KK-00349

STATE OF LOUISIANA

VS.

HERMAN RANEY

*ON SUPERVISORY WRIT TO THE 19th JUDICIAL DISTRICT COURT,
PARISH OF EAST BATON ROUGE*

PER CURIAM

Writ Granted; Judgment denying motion to suppress results of warrantless search reversed; Remanded.

Defendant is charged with one count of simple burglary. For the following reasons, we are constrained to find that the warrantless search in this case was an improper search.

Defendant's place of residence was searched after Detective Edwards of the East Baton Rouge Parish Police Department received a tip from Orlantez Brown. Brown told Det. Edwards that there could be evidence of Brown's involvement in the burglary of a smoke shop at the apartment he shared with defendant. Brown additionally noted that his girlfriend Bianca Domino was living in the apartment. Det. Edwards proceeded to the apartment. Upon his arrival, Det. Edwards knocked on the door and explained why he was there. The detective did not have a search warrant for the apartment; however, Ms. Domino allowed him to enter the premises. Ms. Domino led Det. Edwards to the room she shared with Brown and to defendant's room, which she identified as "Herman's bedroom." No evidence was offered by the State to establish that anyone other than defendant had control over or joint access to defendant's bedroom, other than the fact that the door was

not locked. During the course of the subsequent search of defendant's bedroom, Ms. Domino asked Det. Edwards whether he needed a warrant, to which he testified "I think I told her no, I don't need a warrant if you give me permission. Something along those lines." Det. Edwards continued to search defendant's bedroom since Ms. Domino did not tell him to stop. Det. Edwards found vapes and synthetic marijuana in what was identified as the defendant's room.

Defendant filed a motion to suppress the fruits of the warrantless search, which was denied by the trial court. Without supplying further reasons, the court found that Ms. Domino's consent to search the apartment was sufficient to meet an exception to the warrant requirement.

The central issue presented is whether it was reasonable for Det. Edwards to believe that Ms. Domino possessed either the actual or apparent authority to consent to a search of defendant's room. The determination of consent to enter must "be judged against an objective standard: would the facts available to the officer at the moment ... 'warrant a man of reasonable caution in the belief' that the consenting party had authority over the premises? If not, then warrantless entry without further inquiry is unlawful unless authority actually exists." **Illinois v. Rodriguez**, 497 U.S. 177, 188 (1990)(quoting **Terry v. Ohio**, 392 U.S. 1, 21-22 (1968)). When seeking to justify a warrantless search by proof of voluntary consent, the prosecution "is not limited to proof that consent was given by the defendant, but may show that permission to search was obtained from a third party who possessed common authority over or other sufficient relationship to the premises or effects sought to be inspected." **United States v. Matlock**, 415 U.S. 164, 171(1974). In **State v. Abram**, 353 So.2d 1019, 1022 (La. 1977), this court recognized that a person's expectation of privacy is severely limited by the joint

dominion or authority over the property. However, an exception to this general rule occurs when there are within a residence areas or zones for the exclusive use of one tenant. **State v. Cover**, 450 So.2d 741, 745-46 (La. App. 5 Cir. 1984). In such a situation, common authority within a residence does not justify a search based on consent from a party not occupying the exclusive area. *Id.*; see also, **State v. Edwards**, 97-1797 (La. 7/2/99), 750 So.2d 893, 901.

In this case, despite Det. Edward's failure to seek formal identification from Ms. Domino, it was reasonable for him to believe that she had common authority over the premises, especially in light of information given by Mr. Brown regarding her dwelling there. However, once she identified a specific room as "Herman's room," Det. Edwards was on notice that the room was not a common area over which Ms. Domino had authority to consent to search. See, **State v. Edwards**, *supra*; **State v. Cover**, *supra*. The evidence in this case indicates that Det. Edwards was put on notice that the specific room was defendant's room prior to entering and conducting a search of the room. Ms. Domino had authority to consent to a search of the common areas in the apartment and the room that she shared with Mr. Brown. However, it is less clear that she had any authority to consent to the search of defendant's room. The fact that defendant's room was not locked does not alone suggest that the room was not for defendant's exclusive use. Because the state failed to present evidence that the room was not for defendant's exclusive use, we reverse the trial court's judgment denying defendant's motion to suppress evidence seized during the warrantless search, and remand for further proceedings consistent with this opinion.