

The Fourth Amendment of the United States Constitution protects against unreasonable searches and seizures, and generally requires a search warrant in order for the police to conduct a search. There are some exceptions to the warrant requirement, one of which is “a search incident to a lawful arrest.” One of the key components to this exception is the reasonableness of searching for weapons or other evidence of a crime when a person is taken into official custody and lawfully detained. This kind of warrantless search is justified because an arrested defendant may be a danger to the arresting officers and use a weapon, or conceal or destroy evidence.

In this case, after defendant was arrested for transporting a controlled substance and taken to the police station, the arresting officer took defendant’s cell phone and placed it with other evidence that had been collected. A detective interviewed defendant, who denied he was involved in the incident, and waived his constitutional rights to counsel and to remain silent. Defendant was still being interrogated when the detective retrieved defendant’s cell phone, searched the text message folder, and found an incriminating message that referred to what the detective believed was a drug transaction. Defendant then admitted that he participated in the crime for which he was arrested.

Defendant claims the police illegally obtained the text message. If so, the evidence may not be admitted at trial under the “exclusionary rule,” which requires the exclusion of illegally obtained evidence. The following issues are likely to be discussed during oral argument:

a. The parties dispute whether the delayed warrantless search of defendant’s cell phone text message folder was valid as a search incident to defendant’s lawful arrest, or if the search of the cell phone nearly 90 minutes after defendant’s initial arrest was too remote in time to qualify as a valid incident-to-arrest search. Oral argument may address whether cell phone message folders, which can store large amounts of personal information, should be given greater constitutional protection than other items an arrestee might carry on his person, such as wallets or purses.

b. A related question that the parties dispute is whether a cell phone text message search exceeds the original rationale for searches incident to arrest: to ensure officer safety and preserve evidence that could be destroyed or concealed. Oral argument may focus upon whether decisions of the United States Supreme Court require the California Supreme Court to distinguish between the cell phone itself and its contents.