

6)

1 Argument about the Issue 1

The investigating officer lacked reasonable suspicion to stop the defendant's vehicle and as a result, both stop and the subsequent search violated the defendant's Fourth Amendment rights under the United States Constitution.

1) The relevant cases and rule under Franklin law

a) The rule

There has to be (i) a reasonable suspicion that criminal activity may be afoot (Terry v. Ohio ("Terry")) for the police to make a brief investigatory stop if they have a reasonable suspicion that criminal activity may be afoot.

In order to determine whether the suspicion is reasonable, the court will look at the (ii) totality of the circumstances of each case (Under State v. Montel ("Montel")). In the case of lack of "personal observation" or "firsthand account" of a crime, there is no way of knowing the original informant's state of mind and whether the original informant is reliably and accurately relating events (Terry State v. Grayson ("Grason")). Therefore, this is taken into account as a

negative factor to admit the (i) above.

Also, the (iii) the independent police corroboration is necessary in order to make a brief investigatory stop (Grayson).

b) This case

In this case, The Officer Simon ("Officer") had no reasonable suspicion that would justify the stop of McLain ("D") as the following reasons.

The officer is not "personal observation" or "firsthand account" of a crime, because he had just received an unknown call. Also, he just experienced the marijuana case on 8th street and he has no experience in 8th street regarding methamphetamine.

(iii)

Because he had just received an unknown call, so there is no independent police corroboration. The fact he searched the
Also, he just experienced the marijuana case on 8th street and he has no experience in 8th street regarding methamphetamine. So, there is no independent corroboration here. Also, he just checked the very common character of the suspect based on the phone. This is not enough. Besides, he found a less significant quantity of methamphetamine. Also, the package of coffee is not included in the phone and it can affect to deny the reasonableness.

Therefore, the mistake about marijuana shows his lack of corroboration.

On the contrary, the Office may say that there is no report from Oxford Streetshop-Mart, that turned out to be erroneous.

However, in this case, the informant is unknown person and not Oxford, so this doesn't corroborate his belief.

there is no way of knowing the original informant's state of mind and whether the original informant is the reliably and accurately relate events.

2 Argument about the Issue 2

1) The relevant cases and rule under Franklin law

a) The rule

Under State v. Decker ("Decker"), if it is impossible to commit the greater offense without first having committed the lesser offense, it is the violation of the double jeopardy and due process provision of US Constitution (Decker)

Franklin case law doesn't require a strict textual comparison. If in comparing the elements of the offenses in the abstract, there offenses are so similar that the commission of one offense will necessarily result in commission of the other, then the offenses are multiplicitous.

b) This case

In this case, the elements of the Possession of Equipment or Supplies with the intent to Manufacture Methamphetamine, (Code 43) is as lesser-included offense of Manufacture of Methamphetamine (Code 51). Because, in comparing the elements of the former offense and latter offense, to commit the latter offense, the person manufactures 15 or more grams but less than 100 grams of methamphetamine, and this means that after manufacturing the object, they automatically possess

impossible to commit the greater offense without first having committed the lesser offense, it is

This means that the defendant automatically has to possess and it is impossible to commit the latter offense without first having committed the lesser offense.

offenses in the abstract, these offenses are so similar that the commission of one offense will necessarily result in commission of the other, then the offenses are multiplicitous.

END OF EXAM

Seperac

NY Bar

Essay/MPT

Analysis