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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES)	
)	
v.)	CRIMINAL NO. 82-0085-A
)	
MARTHA BLACK and)	
ROBERT DEWEY BLACK.)	

MEMORANDUM OPINION

The defendants Martha and Robert Dewey Black have submitted a joint motion to suppress certain evidence seized during warrantless searches of their automobile and Martha Black's purse. They contend that these searches violate the fourth amendment, because they do not fall within any of the recognized exceptions to the warrant requirement. The government responds that the searches qualify under the exceptions for searches incident to arrest and for inventory searches. For the reasons stated below, the court grants the motion to suppress.

I. FACTUAL FINDINGS

On March 18, 1982, Investigator Greg Dutcher of the Alexandria Police and FBI Agent Connolly arrested the Blacks. The arrest occurred about 5:30 P.M. as the Blacks were edging their automobile out of a parking space on an Alexandria street. The defendants do not dispute the government's assertion that Dutcher and Connolly had probable cause to make this arrest.

At the time of the arrest, Dutcher removed Martha Black's purse from the automobile. He briefly searched the purse while Connolly placed the defendants in his car. This search did not produce any useful evidence. The two officers then drove the Blacks to an Alexandria police station. At the station, Dutcher conducted a thorough search of the purse. This search produced the evidence in question. The court finds that the purpose of this inspection was to produce evidence, rather than to inventory the contents.

Shortly after the arrest, an Alexandria police officer towed the Blacks' car to an impoundment lot. At the lot, he performed an inventory search of the automobile's interior. This search did not yield any usable evidence. Dutcher conducted his own

inspection of the car on the following day. This search produced the evidence that is the subject of this motion. The court again holds that the purpose of the search was to generate evidence, rather than to inventory the contents.

II. LEGAL ANALYSIS

The government first attempts to justify the search of the purse as a search incident to arrest. There is no dispute that Dutcher's initial inspection of the handbag at the time of arrest qualifies under this exception. See New York v. Belton, 101 S. Ct. 2860, 2864 (1981); Chimel v. California, 395 U.S. 752, 762-63 (1969). The government, however, wishes to extend the exception to cover Dutcher's search at the police station after the Blacks were securely in police custody. The government relies on United States v. Edwards, 415 U.S. 800, 807-08 (1973). Unfortunately, the Supreme Court severely limited its Edwards holding in United States v. Chadwick, 433 U.S. 1 (1977).

Chadwick places strict limitations on the scope of the search-incident-to-arrest doctrine:

Once law enforcement officers have reduced luggage or other personal property not immediately associated with the person of the arrestee to their exclusive control, and there is no longer any danger that the arrestee might gain access to the property to seize a weapon or destroy evidence, a search of the property is no longer an incident of the arrest.

Id. at 15. See also Arkansas v. Sanders, 442 U.S. 753, 761-66 (1979). The search conducted by Dutcher at the police station clearly does not qualify as incident to arrest, because it meets all of the Chadwick elements. See United States v. Monclavo-Cruz, 662 F.2d 1285, 1287-88 (9th Cir. 1981); United States v. Calandrella, 605 F.2d 236, 247-50 (6th Cir.), cert. denied sub nom. Kaye v. United States, 444 U.S. 991 (1979); United States v. Schleis, 582 F.2d 1166, 1171-72 (8th Cir. 1978) (en banc). In addition, the fact that Dutcher retrieved the purse from the Black's car does not affect the Chadwick analysis. See Arkansas v. Sanders, 442 U.S. 761-66.

The government next argues that the search of the purse falls under the exception for inventory searches. The court,

however, finds that Dutcher's intention was to discover usable evidence, rather than to safeguard Martha Black's property. The search, therefore, cannot qualify as an inventory search. See South Dakota v. Opperman, 428 U.S. 364, 375-76 (1976); United States v. Monclavo-Cruz, 662 F.2d at 1288-89; United States v. Schleis, 582 F.2d at 1172-73. As a consequence, the court must suppress the evidence seized from the handbag.

The government also attempts to justify Dutcher's search of the Black's automobile as both a search incident to arrest and an inventory search. The search of the car was not an incident of arrest, because it occurred on the following day after the car had been securely impounded. See New York v. Belton, 101 S. Ct. at 2864; Chambers v. Maroney, 399 U.S. 42, 47 (1970). In addition, the search does not qualify as an inventory search, because Dutcher had an investigatory motive. See South Dakota v. Opperman, 428 U.S. at 375-76. Thus, the court also must suppress the evidence seized from the glove compartment of the Black's car.

UNITED STATES DISTRICT JUDGE

DATE: _____