

ILLINOIS PROSECUTOR SERVICES, LLC

PO Box 722, Carlinville, IL 62626
Phone: (217) 854-8041 Fax: (217) 854-5343
Website: www.ipsllonline.com
E-mail: don@ipsllonline.com



LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of November – 2021

Copyright © 2021 Illinois Prosecutor Services, LLC. All Rights Reserved.

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of November - 2021

People v. Samantha L. Molnar, 2021 IL App (2d) 190289, April 20, 2021

While a passenger in a car stopped by the police, Molnar was seen in possession of an unlabeled pill bottle which she admitted contained Xanax. The arresting Officer seized the bottle. Was the seizure of the bottle Legal?

FACTS: The arresting Officer responded to a call involving two vehicles stopped by the police in relation to a call about a possible altercation. The Officer approached and spoke to Molnar, who was in the front passenger seat of one of the vehicles. The Officer's body camera recorded the interaction with Molnar. The bodycam video was played for the court. In the video, the Officer stepped up to the vehicle and asked Molnar if he could talk with her "real quick." Molnar stepped out of the vehicle without being asked. After she did so, the Officer, who was flashing a light into the front passenger area, asked Molnar, "What's with the pills right there?" Molnar responded that it was her Xanax. Without being asked, she reached into the car and took out what appeared to be a pill bottle. The bottle had no label. She held the bottle up, stating that her sister had just died. The Officer reached his hand out and asked, "Can I see the pills?" Molnar responded, "Yeah," and handed him the bottle. The Officer shone his flashlight into the bottle, revealing that it contained pills and a plastic baggie. He then asked Molnar, "Why do you have your pills in a pill bottle with no—?" The Officer's voice trailed off as he pointed to the bottle, apparently indicating the lack of a label. Molnar said that she brought the Xanax from her house and that her husband did not know that she took Xanax. The Officer asked Molnar if she had a prescription for the pills, and she said, "No, I got them from somebody." Another officer arrived and also asked Molnar if she had a prescription for the pills, and she said that she did not. She said that she did not know what was in the baggie inside the bottle.

After the video was played, the Officer testified that it was an accurate portrayal of his interaction with Molnar. The Officer also testified that, when Molnar stepped out of the vehicle to speak with him, he saw a pill bottle on the front passenger seat. He could tell from where he was standing that the bottle was unlabeled and that it contained pills and "a plastic baggie or something." When he questioned Molnar about the pills, she immediately said that they were "my Xanax." The Officer testified that he had previous experience with Xanax and knew that it was a controlled substance. When he asked to see the pills, he already believed that they were illegal, although Molnar had not yet told him that she did not have a prescription for them. Examination of the bottle showed that it contained different types of pills, including Xanax, and also two plastic baggies with residue in them. Molnar was arrested for possession of a controlled substance. She was charged based on the pills and the residue in one of the plastic bags, which tested positive for cocaine.

Molnar moved to suppress the evidence found in the pill bottle. The trial court denied her motion and, following a bench trial, Molnar was found guilty of illegally possessing the pills. This appeal followed.

ISSUE: Should the district court grant Molnar's motion to suppress?

ARGUMENT: Molnar argued that the trial court erred when it denied her motion to suppress. She contended that the Officer lacked probable cause to seize the bottle because he did not yet know whether she had a prescription for the pills. The People argued that the seizure was legal because Molnar consented to the Officer's request to see the pill bottle or, in the alternative, that the plain-view doctrine applied to the seizure.

THE LAW: The Fourth Amendment to the United States Constitution protects individuals from unreasonable searches and seizures. Generally, a search and seizure is reasonable under the Fourth Amendment only if the government first obtains a warrant issued after a finding of probable cause. "Probable cause exists when the totality of the facts and circumstances known to the officers is such that a reasonably prudent person would believe that the suspect is committing or has committed a crime." However, the plain-view doctrine authorizes the warrantless seizure of an illegal item visible to a police officer whose access to the item has some prior justification under the Fourth Amendment and who has probable cause to suspect the item is connected to criminal activity. An officer may seize property that is in plain view if three requirements are met: (1) the officer is lawfully located in the place where he observed the object; (2) the object is in plain view; and (3) the object's incriminating nature is immediately apparent.

" 'Plain view' requires probable cause to permit a seizure." If the officer lacks probable cause to believe that the object in plain view is contraband without conducting some further search of the object, i.e., if the object's incriminating nature is not immediately apparent, its seizure is not justified under the plain-view doctrine. The "immediately apparent" or "probable cause" elements require sufficient evidence to justify the reasonable belief that the defendant has committed or is committing

a crime. Probable cause is “not a high bar.” “It exists if, from the standpoint of an objectively reasonable officer, the items or events at issue create a reasonable probability that defendant committed or is committing a crime.” Thus, while a mere hunch is insufficient to support a seizure, “a police officer views the facts ‘through the lens of his police experience and expertise’ and ‘may draw inferences based on his own experience in deciding whether probable cause exists.’ ” Probable cause to believe that a package contains illegal drugs does not require absolute certainty of its contents on the officer's part. An officer is not required to “know” that the item he or she sees is contraband or evidence of a crime. The United States Supreme Court has discussed the concept of an object's “immediately apparent” criminality, calling the phrase “an unhappy choice of words.” “It merely requires that the facts available to the officer would ‘warrant a man of reasonable caution in the belief,’ that certain items may be contraband or stolen property or useful as evidence of a crime; it does not demand any showing that such a belief be correct or more likely true than false.”

ARGUMENT: On appeal, Molnar did not dispute that the bottle was in plain view or that the Officer was lawfully located by the vehicle when he viewed it. The only issue was the third requirement. Molnar contended that the incriminating nature of the bottle of pills was not apparent until after the Officer seized it, because only then did Molnar admit that she lacked a prescription for the pills.

KEY CASE: Molnar argued that the case of People v. Humphrey, 361 Ill. App. 3d 947, (2005), controls this case. There, a state police trooper stopped a motorist for speeding. During the stop, the trooper saw a container holding several hundred pills near the feet of the defendant, who was the front seat passenger. The defendant did not answer when the trooper asked what the pills were. However, the defendant handed the pills over to the trooper when asked to do so and then told the trooper that they were pseudoephedrine. The trooper again asked what the pills were for, and the defendant said that he got the pills in Wisconsin and was taking them to Missouri to make methamphetamine. The trooper found more pills scattered throughout the car. The trooper had not dealt with pseudoephedrine before and did not know at the time whether possession of it was an arrestable offense. While he thought that the pills could be contraband based on the amount of them, he said that, when he searched the car, he “ ‘was not exactly sure what the pills were.’ ” The People charged the defendant with unlawful possession of methamphetamine manufacturing chemicals, and the trial court granted the defendant's motion to suppress. The appellate court affirmed, holding that the plain-view doctrine did not apply, because the pills’ incriminating nature was not immediately apparent to the trooper. The Court noted that the trooper “did not know what the pills were, apart from being told, after he saw them and was handed the container, that they were pseudoephedrine.” Moreover, the trooper “was not sure, even after searching the car, if possession of the pills was an arrestable offense.” “Viewing something without understanding what one is viewing, even requiring an explanation of what one is viewing, is not plain view.”

FINDINGS: In this case, the Court held that Humphrey was distinguishable from the facts of this case, and the plain-view doctrine applied. The Court noted that in Humphrey, the trooper specifically admitted that, when he seized the pills, he did not know what the pills were or whether possessing them was a crime. Based on these admissions, the Court held that the trooper lacked probable cause to believe that the pills were contraband. In contrast, in this case, before the Officer even took control of the pills, he believed that they were contraband. Molnar told the Officer that the pills were Xanax, which the Officer knew to be a controlled substance requiring a prescription. Based on this knowledge plus his observation that the pills were in an unlabeled bottle that also contained a baggie, the Court concluded that the Officer had probable cause to believe that Molnar lacked a prescription for the pills and thus was committing a crime. The Court noted that “A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner *** may lawfully possess such substance only in the container in which it was delivered to him or her by the person dispensing such substance.” 720 ILCS 570/312(g) Further, the Court noted that Molnar argued that this provision said nothing to suggest that the original label must remain on the bottle. Nevertheless, the Court held that the logical inference from an unlabeled bottle containing Xanax plus a plastic baggie was that the bottle is not the original container in which the Xanax was dispensed. Thus, the pills’ incriminating nature was immediately apparent, and the Officer had probable cause to seize them under the plain-view doctrine.

CONCLUSION: The appellate court concluded that the incriminating nature of the pill bottle was immediately apparent to law enforcement officer. Consequently, the seizure of the bottle pursuant to the plain view doctrine did not violate the Fourth Amendment.

QUIZ QUESTIONS FOR THE MONTH OF NOVEMBER – 2021

People v. Samantha L. Molnar, 2021 IL App (2d) 190289, April 20, 2021

1. As a general rule, a search conducted by a peace officer is legal only if the Officer first obtains a search warrant.
 - a. True.
 - b. False.

2. Does the plain view exception to the warrant requirement of the Fourth Amendment allow peace officers to make searches without first obtaining a search warrant?
 - a. Yes.
 - b. No.

3. The Court in this week's case listed the three elements of the Plain View Doctrine. Which one of the following was not one of those elements?
 - a. the object is located in a place that could be viewed by the public; such as a car.
 - b. the officer is lawfully located in the place where he observed the object.
 - c. the object's incriminating nature is immediately apparent.
 - d. the object is in plain view.

4. Molnar argued that the case of People v. Humphrey supported her argument that the plain view doctrine did not apply in this case to justify the arresting Officer's seizure of the pill bottle. The appellate court agreed with this argument.
 - a. True.
 - b. False.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF NOVEMBER – 2021

People v. Samantha L. Molnar, 2021 IL App (2d) 190289, April 20, 2021

1. As a general rule, a search conducted by a peace officer is legal only if the Officer first obtains a search warrant.
a. True. As the Court explained in this case: “Generally, a search and seizure is reasonable under the fourth amendment only if the government first obtains a warrant issued after a finding of probable cause. Illinois v. McArthur, 531 U.S. 326, (2001).

2. Does the plain view exception to the warrant requirement of the Fourth Amendment allow peace officers to make searches without first obtaining a search warrant?
a. Yes. The Court noted: “However, the plain-view doctrine authorizes the warrantless seizure of an illegal item visible to a police officer whose access to the item has some prior justification under the fourth amendment and who has probable cause to suspect the item is connected to criminal activity.” Illinois v. Andreas, 463 U.S. 765, (1983).

3. The Court in this week’s case listed the three elements of the Plain View Doctrine. Which one of the following was not one of those elements?
a. the object is located in a place that could be viewed by the public; such as a car. This is not one of the elements of the Plain View Doctrine listed by the Court.

4. Molnar argued that the case of People v. Humphrey supported her argument that the plain view doctrine did not apply in this case to justify the arresting Officer’s seizure of the pill bottle. The appellate court agreed with this argument.
b. False. The Court concluded that Humphrey did not apply in this case because the arresting Officer knew that the pills in question were a controlled substance before he seized the bottle.