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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2137**

State of Minnesota,
Respondent,

vs.

Patricia Rodriguez-Sanchez,
Appellant.

**Filed October 31, 2011
Affirmed
Minge, Judge**

Mower County District Court
File No. 50-CR-09-1932

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Kristen Nelson, Mower County Attorney, Jeremy Clinefelter, Assistant County Attorney, Austin, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Sharon E. Jacks, Assistant State Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Halbrooks, Judge; and Minge, Judge.

UNPUBLISHED OPINION

MINGE, Judge

Appellant challenges her conviction of forgery, arguing that law enforcement exceeded the scope of a warrant authorizing the search of her residence for items

regarding her husband's identity when they searched her purses and photographed various items pertaining to her identity, and that all subsequently gathered evidence of her identity was inadmissible as "fruits from the poisonous tree." Because the guilt-establishing evidence presented at trial came from untainted sources, we conclude that the district court did not err in admitting that evidence and affirm.

FACTS

On June 12, 2009, appellant Patricia Rodriguez-Sanchez called 911 to report that her husband, Delfino Sanchez-Hernandez, had assaulted her. Police were dispatched. They observed that appellant was injured, arrested her husband, and transported him to jail. Jail personnel reported that husband had a Matricula Consular card with the name Delfino Sanchez-Hernandez and paperwork from Quality Pork Processors (QPP) with the name Richard Morones-Hernandez. Husband identified himself as Richard Hernandez and claimed that the Matricula Consular card was his brother's. Not being sure of the identity of the person in custody and suspecting forged documents, police obtained a warrant to search the couple's residence for items indicating that the person in custody had filled out government documents in violation of state law.

Appellant was not home when the police arrived to execute the search warrant. While inside the home, the officers noticed a QPP photograph of a female on the wall with the name "Lisa Salazar" and the title "Employee of the Month." The officers also noticed two women's purses in the home and searched them, reasoning that they might contain items that would indicate the identity of appellant's husband. In the purses, the officers found QPP pay stubs for Lisa Salazar (including one with appellant's name

handwritten on it), a letter from the Internal Revenue Service (IRS) to Lisa Salazar, receipts for money orders sent to Mexico by Lisa Salazar, a letter from the IRS to Patricia Sanchez, and letters from Mower County Human Services to Patricia Sanchez. The officers photographed these items and the QPP picture hanging on the wall but did not take them.

As the officers prepared to leave, appellant returned to her residence. Through an interpreter, police asked who she was and informed appellant about the search warrant. They noticed appellant's resemblance to "Lisa Salazar" in the photograph and asked appellant if she was the person in the "Employee of the Month" photograph. Appellant responded that she was and that she worked under the Salazar name at QPP. Police also asked appellant questions regarding her husband and for identification.

Law enforcement subsequently checked state records and discovered that State of Minnesota identification cards had been issued to Lisa Salazar and that these state-issued cards had pictures of appellant. In addition, they contacted QPP and requested Lisa Salazar's employment information, including copies of any identification documents used at the time of hiring. Subsequently, in a formal interview, appellant was given the *Miranda* warning and again admitted to working at QPP under the name of Lisa Salazar.

Appellant was charged with two counts of aggravated forgery under Minn. Stat. § 609.625, subds. 1, 3 (2008). Prior to trial, appellant moved to exclude the evidence against her. She challenged the constitutionality of the search, arguing that the documents in her purses and at her home pertaining to her identity and alias were outside the scope of the search warrant and that all other evidence was only discovered as a result

of this initial violation and was therefore inadmissible. The district court held an omnibus hearing and subsequently ruled that the evidence was admissible. After the state amended the charges against her to include only one count of simple forgery, appellant stipulated to the state's case to obtain immediate review of the pretrial evidentiary ruling. *See* Minn. R. Crim. P. 26.01, subd. 4 (wherein parties can agree that the district court's ruling on a pretrial issue is dispositive and makes a contested trial unnecessary, but the issue is preserved for appellate review). The district court found appellant guilty of forgery, Minn. Stat. § 609.63 (2008), but issued a stay of imposition for three years, with the proviso that if she successfully completes probation, she will receive a misdemeanor conviction.¹ This appeal follows.

D E C I S I O N

The issue in this case is whether the district court erred by admitting the evidence against appellant, including two confessions to using forged documents to obtain employment. “When reviewing pretrial orders on motions to suppress evidence, we may independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence.” *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999).

Appellant argues that law enforcement exceeded the scope of the warrant when they searched her purses for items pertaining to husband's identity and took photographs of items pertaining to her identity. Appellant concludes that other evidence against her,

¹ Although appellant had been unlawfully employed in this country and was detained by Homeland Security, she has since been granted a “V” visa, available to victims of domestic abuse and lawfully returned to her former position at QPP.

including two confessions, was only obtained because of these initial unlawful actions and was therefore inadmissible. *See Wong Sun v. United States*, 371 U.S. 471, 487–88, 83 S. Ct. 407, 417 (1963) (stating that evidence is inadmissible if acquired by the exploitation of illegally acquired evidence). The state argues that it is irrelevant whether law enforcement exceeded the scope of the warrant because it did not utilize the photographed evidence to obtain appellant’s confessions or the evidence gathered subsequently during the investigation. Because the state’s argument, if valid, would determine the issue, we begin our analysis there without considering whether the items discovered in appellant’s purses and the photographed documents, including the employee award, are inadmissible evidence.

In determining whether evidence is “fruit” of an unlawful search and must be suppressed under the exclusionary rule, we examine “whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint.” *Knapp v. Comm’r of Pub. Safety*, 610 N.W.2d 625, 628 (Minn. 2000) (quotation omitted). Factors to examine include “the purpose and flagrancy of the misconduct, the presence of intervening circumstances, whether it is likely that the evidence would have been obtained in the absence of the illegality and the temporal proximity of the illegality and the evidence alleged to be the fruit of the illegality.” *Id.* (quotation omitted).

Here, we note that it is not necessarily unreasonable to expect a woman’s purse to contain papers pertaining to others in a household. *See State v. Wills*, 524 N.W.2d 507,

509 (Minn. App. 1994) (“Generally, any container situated within a residence that is the subject of a validly-issued warrant may be searched if it is reasonable to believe that the container could conceal items of the kind portrayed in the warrant.”), *review denied* (Minn. Feb. 14, 1995). Nor does photographing items which are in plain sight during a search necessarily constitute a seizure. *State v. Fulford*, 290 Minn. 236, 240, 187 N.W.2d 270, 273 (1971). Thus, the police search of appellant’s purses and photographing of the QPP award was not flagrant misconduct.

Moreover, we do not have to decide the legality of the purse search and photographing the award. At all times during what was otherwise a lawful search for documents to shed light on the identity of appellant’s husband, the QPP “Employee of the Month” photograph was in plain view. The officer executing the search warrant had not previously seen appellant. Based on the 911 call, this subsequent investigation, and the search warrant, police believed the victim was Patricia Rodriguez-Sanchez. When appellant returned home, police could clearly see that appellant resembled the woman in the QPP photograph which was in plain view and that she was identified as Lisa Salazar. Asking the name of a person entering the premises during the execution of a search warrant is routine. After learning that appellant was the victim who called 911 and seeing appellant and the employee-award picture on the wall, it was a simple matter for law enforcement to recognize appellant’s apparent dual identities and suspect her of using forgeries similar to her husband. Police did not need to refer to or utilize the various documents located within appellant’s purses to obtain a confession, nor did they need the

photographed items to check QPP's employment records for Lisa Sanchez or to check state databases for appellant's identification documents.

Because the evidence used at trial was obtained by lawful means that were distinguishable from the challenged conduct, we conclude that the district court did not err in admitting appellant's two subsequent confessions and the information supplied by QPP. Because this evidence was sufficient to establish that appellant intentionally defrauded QPP by knowingly using a falsified identification document to obtain employment, the elements necessary to establish a prima facie case of forgery under Minn. Stat. § 609.63, subd. 1(1) existed, and we affirm appellant's conviction.

Affirmed.

Dated: