IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	**No. 29497-8-III**
Respondent,	)	
	)	**Division Three**
v.	)	
	)	
ERIN M. MACKEY,	)	
	)	**UNPUBLISHED OPINION**
Appellant.	)	
	)	

Sweeney, J. — Community corrections officers have liberal authority to search the home and possessions of those under their supervision. The standard is reasonable suspicion rather than the usual constitutionally mandated probable cause standard. But their authority to search does not extend to those with whom the parolee lives, those who are not under supervision. Here the officers searched what turned out to be a woman's handbag, a woman not under supervision. The court nonetheless refused to suppress the drug evidence found in the bag, after finding the camouflage bag was not obviously a woman's, and was apparently associated with some drug transactions. We conclude that the court's refusal to suppress the evidence was well founded in both fact and law and we

affirm the two convictions for possession of drugs.

FACTS

Walter Styer reported in with his community corrections officer and admitted that he had recently used methamphetamine. Mr. Styer gave the officers the address of his home. They took Mr. Styer into custody and then drove to his home to search for drugs.

They approached, knocked, were admitted, and saw Erin Mackey coming down a stairway. Mr. Styer shares a bedroom with Ms. Mackey. The officers entered Mr. Styer's bedroom and saw a camouflage bag and a note on the bed. The note read:

> You had 3 grams with the Bag[.] I took 1/2 tea out of it to take down the street[.] I will be Back in 20 mins. 'K.

Clerk's Papers (CP) at 25; Report of Proceedings (RP) (Sept. 21, 2010) at 63. The bag was camouflage colored with a zipper, two handles, and a shoulder strap. A little black satchel with a drawstring was attached to one handle of the handbag by a chain. An officer opened the satchel and saw what she believed to be "either marijuana, heroin, or some sort of narcotic substance and possibly methamphetamine." CP at 120, 124; RP (Sept. 21, 2010) at 47, 65. She also saw papers and a wallet inside of the handbag. The officers then called the Spokane Police Department to conduct a search for drugs.

A police officer arrived with a dog trained to search for drugs. The dog was led upstairs and alerted on the camouflage bag lying on the bed. The police then searched the bag and the attached satchel and found

heroin and methamphetamine in the satchel. Ms. Mackey's Washington driver's license was inside the bag. An officer arrested Ms. Mackey for possession of a controlled substance.

The State charged Ms. Mackey with two counts of possession of a controlled substance for her possession of the heroin and methamphetamine. She moved to suppress the drug evidence and argued that the camouflage bag obviously belonged to Ms. Mackey, not Mr. Styer, and therefore the officers had no right to search it. The court denied the motion:

> Since the bedroom was a room shared by Styer, it was reasonable to search the room. Based upon the evidence they were searching for, namely drugs, it was reasonable to search the bag and purse as these are both common repositories for narcotics. Because the items searched were both located in Styer's bedroom, it was reasonable to assume that they belonged to him or were controlled by him. Further, and perhaps most determinative, is the fact that the handwritten note near the bag advertised the contents of the bag.

CP at 38. The court also denied a motion for reconsideration and further found that "[t]he photos do not indicate that the bag is or is not distinctly feminine." CP at 57. A jury found Ms. Mackey guilty as charged.

DISCUSSION

Ms. Mackey contends here as she did in superior court that the search of her purse went beyond the corrections officers' authority to search Mr. Styer for probation violations. She urges that the purse

obviously did not belong to Mr. Styer even though it was in his bedroom. Ms. Mackey notes that the corrections officers knew she shared the room with Mr. Styer. Ms. Mackey also argues that there was no evidence on who wrote the note, when it was written, or what "bag" the note referred to.

We review de novo a trial court's conclusion that a warrantless search was valid. *State v. Moore*, 161 Wn.2d 880, 885, 169 P.3d 469 (2007). We review the court's findings following a motion to suppress for substantial evidence. *State v. Mendez*, 137 Wn.2d 208, 214, 970 P.2d 722 (1999).

Warrantless searches are per se unreasonable under the Fourth Amendment to the United States Constitution and article I, section 7 of the Washington State Constitution, unless the search falls within an exception. *State v. Ross*, 141 Wn.2d 304, 312, 4 P.3d 130 (2000). Consent to the search is one of those exceptions. *State v. Hendrickson*, 129 Wn.2d 61, 71, 917 P.2d 563 (1996). And parolees under supervision of the Department of Corrections (DOC) have a reduced expectation of privacy; it permits a search based on only a well-founded suspicion. *State v. McKague*, 143 Wn. App. 531, 544, 178 P.3d 1035 (2008). But, of course, neither consent nor DOC's relaxed authority to search a parolee extends to those not under supervision who share the parolee's residence. *Id.* at 546. And that is the basis for Ms. Mackey's challenge here on appeal.

Mr. Styer consented to the search of his home. And, just as significantly, he told his corrections officer that he had been using drugs. This easily supplies the "well-founded suspicion that a violation has occurred" required before conducting a search. *State v. Massey*, 81 Wn. App. 198, 200, 913 P.2d 424 (1996). It gave the officers the necessary authority to search a "person, residence, automobile, or other personal property" without a warrant. RCW 9.94A.631(1). The State urges that this authority included the authority to search what turned out to be Ms. Mackey's purse because it was in Mr. Styer's bedroom and not obviously Ms. Mackey's.

Here the officers knew, and there is no contest, that the home and this particular bedroom was Mr. Styer's. And they apparently also knew that Mr. Styer shared the bedroom with Ms. Mackey. But the bag here was not obviously a woman's handbag. It was a camouflage bag on a bed used by Mr. Styer. Granted, the bed was also used by Ms. Mackey, but that fact standing alone would not prohibit a warrantless search of personal effects that the officers' could reasonably conclude were his. The bag was not marked or identified as Ms. Mackey's and it was not what would be described as particularly and exclusively feminine. Indeed it was only described as a "purse" after the search revealed Ms. Mackey's driver's license inside. A handwritten note right next to the bag suggested that drug transactions were afoot.

We conclude then that the court properly refused to suppress the drug evidence here and we affirm the convictions.

A majority of the panel has determined that this opinion will not be printed in the Washington Appellate Reports but it will be filed for public record pursuant to RCW 2.06.040.

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Sweeney, J.

WE CONCUR:

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Kulik, C.J.

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Brown, J.