

**People v Grenchus**

2014 NY Slip Op 34030(U)

September 8, 2014

County Court, Broome County

Docket Number: 13-646

Judge: Joseph F. Cawley

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STATE OF NEW YORK  
COUNTY COURT :: BROOME COUNTY

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THE PEOPLE OF THE STATE OF NEW YORK

**DECISION AND ORDER**  
Indictment No.13-646

-vs-

Paul P. Grenchus,  
Defendant.

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**JOSEPH F. CAWLEY, J.**

Defendant is charged with Criminal Possession of Marijuana in the Second Degree (PL20/221.05), Unlawfully Growing Cannabis (PHL 20/3382) and Criminal Possession of a Controlled Substance in the Seventh Degree(PL 220.03).

A *Mapp* hearing was conducted on August 20, 2014. Defendant submitted a post-hearing memorandum dated August 25, 2014, to which the People responded on September 2, 2014.

At the hearing, the People called New York State Troopers David Cartie and Curtis Thompson. Defendant called no witnesses.

**FINDINGS OF FACT**

On August 31, 2012, New York State Troopers David Cartie and Curtis Thompson responded to a "911" call for a domestic dispute at 10 Luddington Road in Maine, New York. Upon their arrival, they were met by Veronica Sena, who explained that she had been involved in a domestic dispute with her boyfriend, Paul Grenchus (defendant herein) about finances, and that he had left the residence prior to their arrival. Ms. Sena explained that she had been in a

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long-term relationship with defendant for approximately 11 years, and that she lived at the Luddington Road address with him. As their questioning continued, Ms. Sena appeared nervous, emotional and evasive. Ultimately, she stated that she could not live “illegal” anymore and indicated that she had something to show the troopers. She then led Troopers Cartie and Thompson through the home, adjacent structures and property, explaining that defendant had been involved in growing and cultivating marijuana at the residence. Upon observing multiple marijuana plants as well as growing paraphernalia, Ms. Sena was asked to and did execute a consent to search form. A subsequent search revealed a large quantity of marijuana as well as growing paraphernalia.

### DISCUSSION

By its express terms, the Fourth Amendment prohibits “unreasonable” searches and seizures. A search conducted without a warrant issued upon probable cause is “per se unreasonable”, subject only to a few specifically established and well-delineated exceptions. Two such exceptions to the warrant requirement are searches conducted under exigent circumstances (see Mincey v. Arizona, 437 U.S. 385) and those conducted pursuant to consent (Davis v. United States, 328 U.S. 582).

It is well established that the police need not procure a warrant in order to conduct a lawful search when they have obtained the voluntary consent of a party possessing the requisite authority or control over the premises or property to be inspected (People v. Plumley, 111 A.D.3d 1418 (4<sup>th</sup> Dept. 2013), *lv. den.* 22 N.Y.3d 1140; People v. Adams, 52 N.Y.2d 1 *rearg den.* 54 N.Y.2d 832). Where two or more people share a common right of access to or control of the property to be searched, any one of them has the authority to consent to a warrantless search in the absence of the other (People v. Rivera, 83 A.D.3d 1370, *lv. den.* 17 N.Y.3d 904). A lawful

search may be conducted without a warrant where “permission to search was obtained from a third party who possessed common authority over or other sufficient relationship to the premises or effects sought to be inspected (People v. Adams, 53 N.Y.2d 1 (1981) (*internal citations omitted*)). “... [W]here the searching officers rely in good faith on the apparent capability of an individual to consent to a search and the circumstances reasonably indicate that that individual does, in fact, have the authority to consent, evidence obtained as the result of such a search should not be suppressed”. “... [T]he police belief must be reasonable, based upon an objective view of the circumstances present and not upon the subjective good faith of the searching officers. Moreover, a warrantless search will not be justified merely upon a bald assertion by the consenting party that they possess the requisite authority. Nor may the police proceed without making some inquiry into the actual state of authority when they are faced with a situation which would cause a reasonable person to question the consenting party’s power or control over the premises or property to be inspected. In such instances, bare reliance on the third party’s authority to consent would not be reasonable and would, therefore, subject any such search to the strictures of the exclusionary rule.” (People v. Adams, 53 N.Y.2d 1 (1981)).

Applying these principles to the case at bar, police responded to a “911” domestic dispute call. Upon arrival, they spoke with a woman, Ms. Sena, who indicated, *inter alia*, that she had been involved in a domestic dispute with her long-time boyfriend, that she had lived at the residence for 11 years, and that he [defendant] had left the residence prior to police arrival. She appeared visibly upset and nervous, and upon further inquiry, indicated that she could not live “illegal” anymore. Ms. Sena then escorted police into the residence and throughout the premises, identifying illegal contraband along the way.

This Court fully credits the testimony of Troopers Cartie and Thompson. They relied in


good faith on the apparent objective authority of Ms. Sena to consent to a search of the premises, which lawful authority she did in fact possess. There is no per se rule requiring that the individual that gave consent testify. Although such testimony may in fact be useful in specific cases, the failure to do so on the present facts was not fatal.

Defendant's application to suppress evidence seized from the subject premises is denied.

This constitutes the Decision and Order of the Court.

It is So Ordered.

DATED: September 8, 2014  
Binghamton NY



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Hon. Joseph F. Cawley  
Broome County Court Judge

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