

On August 31, 2008, Officers Hart and Savage were on patrol in a high crime area of Providence as part of the department's "intensive community policing" program. They were in uniform and in a marked patrol cruiser. While driving down Angel Street, they noticed a man sitting alone on the stoop of an apartment building. He was wearing a gray sweatshirt with "Yankees" emblazoned in large blue letters. He stood out, and they did not recognize him. As they drove by, the man lowered his head and turned away.

Hart suggested that it was a good time to fill out an "FIO" (Field Intelligence and Observation Report). Savage agreed. Angel is a one-way street and a U-turn would have taken them into oncoming traffic. Instead, they turned left and drove down a parallel street to get back to the apartment building. Once there, they saw the man was still on the stoop. However, the sweatshirt was gone. He was wearing a plain blue t-shirt. They pulled over to the curb in front of a Cadillac Escalade. Savage chuckled when he saw its vanity plate, "She*la*Dog".

Savage leaned out of the passenger window and said, "Speak with you for a minute?" The man got up and approached. He handed the officers a driver's license identifying him as Donald Dodge while saying he had no warrants and was not on probation. Hart started a search on the department's computerized database. Savage began to ask questions: "Are you waiting for someone?" and "Where do you live?" Dodge answered that he was just "chillin" and that he lived "right here, on the first floor – with my girl." Dodge appeared anxious. His hands were shaking. Savage asked Dodge if he had anything on him the officers needed to know about. Dodge said no.

Within a minute, the officers got a negative response to the warrants inquiry. Savage then got out of the cruiser and approached Dodge from the same direction as Savage. Dodge reacted by raising his hands and saying, "Come on man, what's this all about?" Hart then asked whether he had any weapons on him. Dodge replied, "Yeah, I got a gun, but it doesn't work." The officers placed Dodge in handcuffs. Savage frisked him and discovered a 9 mm semi-automatic pistol in his back pocket. They then emptied his other pockets and found a wad of currency and scraps of paper with numbers written on them. While this was going on, Hart recited the Miranda warnings. Dodge responded, "I want to call my lawyer. I am not agreeing to anything." The officers called for back-up and put Dodge in the rear of the cruiser.

While waiting for back-up, Savage told Hart he was convinced Dodge was dealing drugs from the apartment stoop. He also said that he bet Dodge kept his "stash" in his sweatshirt, which he had obviously ditched.

Back-up officers arrived in a few minutes. Hart and Savage asked them to watch Dodge while they checked the apartment. They knocked on the door to the first-floor unit and a woman came to the door. She said she was Sheila and that she lived with Dodge in his apartment. The officers told her Dodge was outside and in a "real jam." They asked to look around inside. Sheila hesitated; then said, "Whatever he's doing, it's not mine. Go ahead." The officers walked into the living room and immediately saw the gray "Yankees" sweatshirt draped over a coffee table. There were car keys on top of the sweatshirt. Savage noticed the remote car door opener had a Cadillac emblem on it. Hart asked Sheila if it was her sweatshirt. She picked up the shirt and tossed it to Hart saying, "It belongs to that loser."

As Hart caught it, a small clear plastic container fell out of a pocket and on to the floor. Savage recognized it as a typical crack cocaine vial.

Savage picked up the vial and went outside. He showed it to the detectives who had arrived at the scene while he was inside the apartment. They told him they would complete the search of the apartment. Savage and Hart took Dodge to headquarters to field test the vial's contents, process Dodge and await further instructions.

About an hour later, one of the detectives called Savage to say they had found a safe, more money and some 9 mm ammunition but no more drugs. When informed that the vial's contents tested positive, he told Savage to charge Dodge with unlicensed possession of a pistol and simple possession of cocaine. He explained that, given the small amount of drugs, the prosecutor would never agree to charge intent to deliver. The officers prepared the paperwork and took Dodge to District Court where his lawyer was waiting. Dodge was arraigned on the two charges before a judge, and, despite the prosecutor's argument for high cash bail, was released on his own recognizance.

Hart and Savage watched Dodge's arraignment and, as they walked out of the courtroom, were steaming mad. Hart said it was a shame; he knew Dodge's stash was somewhere close; if not in the apartment, somewhere near. Savage replied, "What about the Escalade? Did you see the plate? Why not search it? Hart answered, "Good guess, but – not enough to get a warrant." Savage replied, "Come with me. Watch this." They followed Dodge and his lawyer to the elevators. They watched the lawyer get into an elevator going up and, when Dodge got into one going down, joined him. Once the doors closed, Savage turned to Hart and said, "I got the judge's O.K. All I need is a pinch bar and that Caddy will be down to the frame in twenty minutes." Dodge looked over and blurted out, "It's not my car!" Hart ignored Dodge and said, "We don't even need the dog. We can just slice and dice 'til we find the product." Dodge exclaimed, "Hold on, it's not my car! Sheila doesn't even let me drive it." Savage, his back turned to Dodge, kept talking. He said, "Call the tow. I'll be at Angel. Once they hook the Escalade up, we'll meet at the shop and start to chop." Hearing this, Dodge shouted, "Look, don't trash Sheila's wheels, it's all in the CD player. Push eject and it will come right out."

Within minutes, the officers were back at the scene. Sheila allowed them to search her SUV. In the CD player they found nearly twenty grams of crack cocaine. Dodge's charges were amended to include possession with intent to deliver.

Dodge's defense attorney intends to file three motions challenging the admission of certain evidence based on alleged violations of his client's rights under the United States Constitution. They will specify:

1. the gun seized from his person outside the apartment, based on the Fourth and Fifth Amendments,
2. the single vial of cocaine seized during the initial search of the client's residence, based on the Fourth Amendment, and
3. his client's "confession" at the courthouse and the evidence seized from the SUV based on the Fifth and Sixth Amendment.

Please discuss the court's likely reasoning in ruling on each of the three motions. Limit your response to issues related to the specified constitutional provisions. Also remember that it is more important to show an understanding of how relevant legal principles apply to the circumstances than it is to state the "right" answer.