

# LEGAL EAGLE EYE NEWSLETTER

February 2025

*For the Nursing Profession*

Volume 33 Number 2

## Emergency Room: Nurses Found Drugs In Patient's Pocket, Rights Not Violated.

The patient was brought to the emergency department in a private vehicle at about 3:00 a.m. with life-threatening gunshot wounds to his neck and jaw.

The victim was conscious, but the only thing he could say to the nurses was that he could not breathe.

The nurses needed to identify the patient by name and birth date so they could enter him into the hospital system and determine if he had a prior medical history there such as known medication allergies.

The nurses began looking through his clothes for his identification. In his pants pocket they found a wad of cash, some pills and a bag of marijuana.

The incriminating contents of the victim's pockets were turned over by one of the nurses to the police officer who had been standing by outside the exam room.

### **Nurses Were Following Protocol**

Hospital protocols for uncommunicative gunshot victims required that they be searched for their identification, particularly their date of birth, under which past hospital charts were indexed.

In searching the patient's clothing for his identification, the nurses followed hospital protocols with no intention of their own or orders from the police to search for incriminating evidence on his person.

In undressing him they were following the protocol for a full body exam for other gunshot wounds or other injuries.



***The government cannot use private individuals to get around the law on probable cause and search warrants.***

***However, there is no violation of the suspect's rights when the results of a private individual's search of the suspect's person, property, papers or dwelling are turned over with no prior understanding with law enforcement.***

UNITED STATES DISTRICT COURT  
MISSISSIPPI  
January 2, 2025

The US District Court for the Northern District of Mississippi ruled the contents of the suspect's pocket will not be suppressed from evidence at trial on charges of possession with intent to distribute narcotics.

The legal analysis starts with the general proposition that an individual's Constitutional rights protect the individual only from the actions of government agents.

A private individual, acting only as a private individual, cannot violate another person's Constitutional rights.

To claim such a violation, the defendant here would have to prove there was a prior arrangement between the hospital and the police department.

The arrangement would have to be for the hospital to direct its employees to search patients without a search warrant on behalf of the police department, in situations where the police department did not have probable cause or otherwise could not get a search warrant, or at least did not have a search warrant to justify a search.

To make the existence of such an arrangement difficult to prove, the courts have added an extra requirement that the private party who has a preexisting arrangement to act on behalf of the police must be getting compensation to do so.

The nurses were private parties doing their job and had no prior connection to the police. ***US v. Defendant***, 2025 WL 20427 (N.D. Miss., January 2, 2025).

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