

Drugs Were In “Plain View,” Nurse Did Not Violate Patient’s Rights.

An individual was taken to the hospital by ambulance after an automobile accident.

An RN and other hospital personnel removed his clothing in the process of assessing the extent of his injuries.

A pill bottle fell out of one of his pockets. Wanting to know what medications the patient was taking, so that that fact could be reported to the physicians, the nurse opened the pill bottle.

The pill bottle contained plastic baggies of a substance the nurse thought might be illegal drugs, i.e., cocaine or methamphetamines.

The nurse called hospital security. The hospital security guard, believing the substance to be illegal drugs, called the police. A police officer came to the hospital, took the pill bottle and its contents into evidence, read the patient his Miranda rights, questioned him, got his consent for a blood test, field-tested the contents of the pill bottle positive for methamphetamine and was informed the hospital lab’s blood test was also positive for methamphetamine.

The patient was convicted of possession of methamphetamine. The Court of Appeals of Kansas ruled out arguments that his Fourth-Amendment Constitutional rights were violated.

The Pill Bottle Was In “Plain View”

The court ruled the nurse, the hospital’s security guard and the police officer each acted lawfully.

According to the court, the pill bottle was found on the patient’s person in the course of necessary, good-faith medical care, not in the course of a police search. That meant it was in “plain view.” No search warrant was needed to open it and determine its contents. **State v. Welch, 140 P. 3d 1061 (Kan. App., August 25, 2006).**