

## 12-03: Parent's Consent to Search Adult Son's Bedroom

**Case:** Ward v. State, 37 Fla. L. Weekly D1187 (Fla. 4<sup>th</sup> DCA, May 16, 2012).

**Date:** May 16, 2012

**Subject:** Parent's Authority To Consent To Search An Adult Son's Bedroom

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**FACTS:** An adult named Ward lived with his mother at a house owned by her. When the police knocked on the door, the mother answered. She consented to a search of her home for drugs.

The police wanted to search Ward's bedroom, and his mother specifically gave them permission to do so. The mother told the police that she had "regular access" to Ward's bedroom, mostly for the purpose of making his bed and doing his laundry. Once in the bedroom, the officers found a box, hidden behind some clothes. Drugs were found inside the box. The drugs were seized, and Ward was charged with trafficking due to the quantity.

Ward moved to suppress the seizure of the drugs, arguing that his mother lacked the authority to consent to a search of his bedroom. The trial court disagreed, and ruled in favor of the State. However, Ward appealed his conviction, and the appellate court ruled in his favor.

**RULING:** No one can validly consent to a search of someone else's personal property, unless the person giving consent actually uses or exercises control over that particular property.

**DISCUSSION:** "Consent" is a well-established exception to the warrant requirement. Here, Ward's mother could certainly consent to a search of a home that she owns and in which she resides. Arguably, she may even have the authority to consent to a search of her adult son's bedroom, when she "regularly accesses" the room. However, she was not authorized to consent to a search of the box that was found in the room. The box belonged exclusively to Ward, and there is no evidence that his mother ever used it, opened it, or touched it. Because the box did not belong to the mother, and because she never interacted with it, she could not consent to a search of its contents. The police exceeded the scope of the mother's consent when the drugs were discovered and the drugs should have been suppressed.

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Officers should consult with their agency legal advisors to confirm the interpretation provided in this Update and to determine to what extent the case discussed will affect their activities.