

GOOD FAITH EXCEPTION TO WARRANT

- 1. Did LE's rely on an invalid warrant? Good faith will save the evidence obtained from an invalid warrant *unless* any one of the following five conditions apply. (The first four are from *Leon*).
 - a. Would a "reasonably well-trained officer" have realized that there was wholly insufficient probable cause to issue the warrant? ("smell test" applied to the affidavit)
 - b. Did the magistrate wholly abandon his/her role? (rubber stamp)
 - c. Was the warrant facially invalid? ("smell test" applied to the warrant)
 - d. Did the warrant issue based in material part on reckless or intentional misrepresentations or omissions by the affiant? (*Franks* hearing)
 - e. In addition to *Leon's* four, here is a fifth basis to refuse the good faith exception —

Was any material portion of the affidavit derived from a previous violation of the Fourth Amendment.

Here's the rule in one sentence:

Can *federal* agents show that the violation occurred in good faith reliance on a facially valid search warrant, issued by a neutral and detached magistrate upon a sworn statement of colorable PC under circumstances showing no reliance upon previous violation of the 4th — or use of reckless/intentional omissions or misrepresentations — that when corrected would otherwise be fatal to the finding of PC.

REMEMBER: Washington State does not recognize the "good faith reliance on a warrant" rule.

AND: Far less common but doctrinally important: Law enforcement's reliance on a *statute* or *court decision* later declared to be unconstitutional can also establish good faith for admissibility of otherwise illegally obtained evidence. The same arguments from *Leon* would apply: deterrence is meaningless if the officer was relying on a statute or prior court decision, etc.