



Does a Search Warrant for a Person Authorize a Strip Search?

Author : Jeff Welty

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Most search warrants are for homes or offices. Some are for vehicles. Less often, a search warrant is for a person. See generally [G.S. 15A-241](#) (defining a search warrant as an order authorizing the search of “designated premises, vehicles, or persons”). When a search warrant authorizes the search of a person, how intensive may the search be? Specifically, may the executing officer conduct a strip search?

Yes. In North Carolina, the answer generally is yes. The leading case is *State v. Johnson*, 143 N.C. App. 207 (2001). The case arose in Chapel Hill when officers came to suspect the defendant of distributing drugs. They obtained a search warrant for his home and his person. They found weapons and scales in the home, then searched the defendant:

An initial search of the defendant's person revealed almost \$2,000.00 in small denominations. The police then asked the defendant to remove his clothing and to bend over at the waist. When he did, the officers saw a piece of plastic protruding from his anus. The officers asked the defendant to remove the package from his anus and found that it contained seventeen (17) individually packaged bags of what was later determined to be crack cocaine.

The defendant argued that the search violated the Fourth Amendment because the applicant did not “articulate specific reasons in [the] application why a strip search was necessary,” but the court of appeals ruled that the strip search was reasonable given that drugs may “readily be concealed on the person so that they would not be found without a strip search.”

Other jurisdictions are split. Other states appear to be divided about whether a strip search may be conducted without specific reason to believe that the subject has evidence concealed under his or her clothing. A few minutes on Westlaw turned up a number of cases that are similar to *Johnson*, including *People v. Jarvis*, 58 N.E.3d 18 (Ill. Ct. App. 2016) (“Because the search warrant authorized a search of defendant’s person for narcotics, the strip search was within the scope of the warrant and did not violate the [F]ourth [A]mendment to the United States Constitution.”); *People v. Butler*, 105 A.D.3d 1408 (N.Y. Supr. Ct. App. Div. 2013) (because a search warrant “specifically directed a search of defendant’s person,” it was proper for officers to require the defendant to remove his clothing); *Moore v. State*, 7 A.3d 617 (Md. App. 2010) (holding that “the [strip] search of appellant pursuant to the warrant was reasonable, considering the nature of the items being searched for [namely, controlled substances] and the places in which they are often hidden”); and *State v. Colin*, 809 P.2d 228 (Wash. Ct. App. 1991) (although the search warrant application “did not articulate reasons why a strip search was necessary,” a strip search of a drug defendant was “justified by the State’s interest in obtaining criminal evidence”). On the other hand, *People v. King*, 292 P.3d 959 (Colo. Ct. App. 2011), collects several contrary authorities and concludes: “Strip searches are distinct from general searches in that they are more invasive and subject the person being searched to potential humiliation and degradation. For that reason, strip searches must be authorized by a warrant allowing strip searches that includes an articulable basis for the more invasive search, or by officers having particularized reasonable suspicion that the defendant has hidden contraband on his body.” Given the split of authority and the lack of a ruling on point by the state supreme court, this may be a viable issue for defense attorneys to litigate.

Caveats. There are several important caveats to keep in mind. First, if the object of the search can’t reasonably be

concealed under the person's undergarments – for example, if it is a bulky firearm or a stolen laptop – conducting a strip search would not be proper. Second, if the object of the search has already been found – for example, if it is a stolen diamond ring that has been recovered from the subject's coat pocket – further intrusive searching would not be reasonable. Third, any strip search should be conducted in a way that preserves the subject's dignity as much as possible under the circumstances. For example, such searches generally should be conducted by an officer of the same sex as the subject, and should not be conducted in public. *See Johnson, supra* (noting with approval that the male defendant was "taken into his bedroom and searched by two male officers," who did not touch the defendant's private areas themselves). Finally, although a strip search may include some manipulation of the subject's genitals and visual inspection of body cavities, physically intruding into a subject's body cavities likely requires separate and express authorization from a court.