

Case Summary

In re Search of 3817 W. West End

321 F. Supp. 2d 953 (D. Ill., 2004)

Court Orders Government to Submit Search Protocol Prior To Examining Seized Computer

In a case that involved the seizure of a computer and electronic storage media, the government sought relief from the court's order, which instructed the government to submit a search protocol before it forensically examined the seized items. The original order outlined the search protocol to ensure that irrelevant or privileged data was not examined. The government objected to the court's order, it argued that a court could not regulate the manner in which a computer was searched once probable cause was established. The government analogized the search of a computer hard drive to the search of a file cabinet concerning papers: the government urged that just as the court could not regulate the manner in which a file cabinet was searched, it could not regulate the search of computer files.

Decision

The court found the government's argument unpersuasive and distinguished the two based on the existence of certain tools allowing the search of computer information to be more targeted than a search of hard copy documents. The court stated that these tools afforded the government the ability to limit its search by date range, key words, specific files, and specific software programs. Based on this, the court held the search protocol was necessary in order to meet the particularity requirement of a constitutional search warrant.

Computer Forensic Search Protocol