



**REASONING:**

1. Although the U.S. Supreme Court concluded (see Hudson v. Michigan Legal Bulletin No. 309) that a violation of the federal "knock and announce" law does not require suppression of evidence; the issue before us is one of state law. The United States Supreme Court decision in Hudson does not bind us.

2. Alaska's "knock and announce" statute (AS 12.25.100) reads: "**Breaking into building or vessel to effect arrest.** A peace officer may break into a building or vessel in which the person to be arrested is, or is believed to be, if the officer is refused admittance after the officer has announced the authority and purpose of the entry." (Emphasis added)

3. Although the police officers here identified themselves as police officers, they never announced the authority for, and the purpose of, their entry into Berumen's hotel room.

4. The mere fact that law enforcement officers come to the door of a dwelling and knock on the door does not, by itself, serve to notify the occupants that the officers have the authority and purpose to force their way in, regardless of the wishes of the occupants -- and this remains true even if the officers, while knocking, identify themselves as law enforcement officers. In Berumen's case, the police never announced their authority or purpose for entering the hotel room, nor was there any other circumstance (exigent or other) that would have made the officers' purpose clear to the occupants.

5. The police officers in this case violated a longstanding requirement of Alaska law that is designed to protect the privacy and dignity of this state's citizens. The evidence found in the hotel room was "secured through such a flagrant disregard" of the procedure specified by the Alaska legislature that it "cannot be allowed to stand without making the courts themselves accomplices in willful disobedience of the law." The evidence is suppressed.

**NOTE:**

The court points out in this opinion that police officers may not be paying sufficient attention to AS 12.25.100. During the evidentiary hearing in this case, one of the officers could not remember that one of the reasons for the "knock and announce" statute is to protect citizens' privacy. A second officer testified he had no idea why the officers failed to abide by the requirement.

Section 2397 of the 1913 Compiled Laws of the Territory of Alaska codified essentially the same "knock and announce" requirement that is found in our current statute.

Nothing has changed when executing a warrant. **You must KNOCK AND ANNOUNCE -- POLICE WITH A WARRANT!** Talking in normal voice or a whisper will not work.

**NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:**

File Legal Bulletin No. 330 numerically under Section R of the manual.