



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 253

December 29, 2001

**INVESTIGATORY SEARCH OF PROBATIONER'S
RESIDENCE PURSUANT TO CONDITIONS OF
RELEASE DOES NOT VIOLATE THE FOURTH AMENDMENT**

Reference: United States
v.
James Knights

U.S. Supreme Court
No. 00-1260
_____ U.S. _____
December 10, 2001

FACTS:

As a condition of his probation for a drug conviction, Knights agreed to "submit...his person, property, place of residence, vehicle, personal effects, to search at anytime, with or without a search warrant, warrant of arrest or reasonable cause by any probation officer or law enforcement officer." (emphasis added) Knights signed the conditions of his release and was placed on probation.

Three days after Knights was placed on probation, police investigated an arson case involving a power transformer which caused \$1.5 million in damages. The power company disconnected his electrical service for failure to pay his bill and earlier had charged Knights with "theft-of-services."

Police suspected Knights and his friend, Steven Simoneau, of the arson. Police conducted a stake out at Knights' residence. Around 3:00 a.m., police observed Simoneau leaving the residence carrying three cylindrical items which appeared to be pipe bombs. Simoneau walked across the street to the bank of the Naper River. Police heard three splashes. Simoneau came back to the residence without the three objects.

Simoneau's pickup truck was parked near Knights' apartment. Police could see a number of suspicious objects in the truck including a molotov cocktail, explosive materials, a gasoline can and two brass padlocks that fit the description of those having been removed from the transformer vault at the time of the arson.

Since the police were aware of the search condition in Knights' probation order, they decided to conduct a search. The police did not believe a search warrant would be necessary based on this condition.

During the search of his residence, police seized detonation cord, ammunition, liquid chemicals, instruction manuals on chemistry and electrical circuitry, bolt cutters, telephone pole-climbing spurs, drug paraphernalia and a brass padlock stamped with the victim power company's name. Knights was charged federally with the arson and the evidence seized at his residence was used against him at his trial.

The District Court suppressed the evidence on the grounds that the search was for "investigatory" rather than "probationary" purposes. The Ninth Circuit Court of Appeals affirmed the lower court's decision.

ISSUE:

Does the Fourth Amendment limit searches pursuant to this probation condition to those with a "probationary" purpose?

HELD: No---nothing in Knights' probation conditions limited searches to those with a "probationary" purpose.

REASONING:

1. Just as other punishments for criminal convictions curtail an offender's freedom, a court granting probation may impose reasonable conditions that deprive the offender of some freedoms enjoyed by law-abiding citizens.

2. When an officer has reasonable suspicion that a probationer subject to a search condition is engaged in

criminal activity, there is enough likelihood that criminal conduct is occurring that an intrusion on the probationer's significantly diminished privacy interests is reasonable.

3. On balance, no more than reasonable suspicion was required to search this probationer's house.

4. Supported by reasonable suspicion and authorized by a condition of probation, the warrantless search of Knights' residence was reasonable within the meaning of the Fourth Amendment.

NOTES:

This case, decided on the U.S. Constitution, allows for any "law enforcement officer" to conduct a warrantless search pursuant to a condition of probation. Alaska courts, based on Alaska's constitution, have thus far held (see Roman v. State, Legal Bulletin No. 7) that the right to conduct conditions-of-release type of searches is limited to parole/probation officers. Alaska police officers can only conduct such searches under the direction of the probation/parole officer.

Review of Section N of the manual is recommended.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section N, "Warrantless Searches Conducted by Probation Officers or Private Persons," of your Contents and Text. File Legal Bulletin No. 253 numerically under Section R of the manual.