



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 223
April 24, 1998

"NO KNOCK" SEARCH WARRANT UPHELD

Reference: United States
v.
Hernan Ramirez

United States Supreme Court
No. 96-1469
March 4, 1998

FACTS:

Police were looking for Alan Shelby who had escaped from custody. A reliable and confidential informant told an ATF Agent that Shelby might be at the home of Ramirez. Shelby had a violent temper and reportedly had access to a large supply of weapons. He also vowed that he "would not do federal time." The ATF Agent drove to the Ramirez residence and observed a man working outside--he resembled Shelby.

Police applied for a "no knock" search warrant, because they believed that knocking and announcing their presence might be dangerous to themselves and others. The warrant was issued.

At the time the U.S. Marshals executed the warrant, Ramirez and his family were asleep in the house. A deputy, with use of a portable loud speaker, announced they had a search warrant. At the same time, one of the officers broke a single window in the garage. The noise woke Ramirez. He thought it was a burglar, so he grabbed a pistol from his closet and fired a round into the ceiling of the garage.

When Ramirez learned it was the police, he put his weapon down. He later told police that he had another weapon in the house. Police also found out that Ramirez was a convicted felon.

Police obtained a second warrant to seize the weapons. Ramirez was charged with being a convicted felon in possession of firearms. Shelby was not on the premises at the time the warrant was served.

ISSUE:

Is a "no knock" entry justified if police have a "reasonable suspicion" that knocking/announcing would be dangerous to themselves and others?

HELD: Yes.

REASONING:

1. In some circumstances, an officer's unannounced entry into a home might be unreasonable under the Fourth Amendment.

2. The common-law principle of announcement is "an element of the reasonableness inquiry under the Fourth Amendment," but that principle "was never stated as an inflexible rule requiring announcement under all circumstances."

3. It matters not that Shelby was not found. Exigent circumstances justified the "no knock" entry in this case.

NOTES:

Comparison of this case to Wilson v. Arkansas (Legal Bulletin No. 192) is recommended.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section M, "Warrants, Affidavits and Informants," of your Contents and Text. File Legal Bulletin No. 223 numerically under Section R of the manual.