

DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 309

June 22, 2006

VIOLATION OF "KNOCK-AND-ANNOUNCE" RULE DOES NOT REQUIRE SUPPRESSION OF EVIDENCE

Reference: Booker T. Hudson v. Michigan United States Supreme Court No. 04-1360 _____U.S.____

June 15, 2006

FACTS:

Police obtained a warrant authorizing a search for drugs and firearms at Hudson's home. When they arrived to execute the warrant, the police announced their presence but waited only a short time (perhaps "three to five seconds") before turning the knob of the unlocked front door and entering the home. During the search, police found and seized large quantities of drugs, including cocaine rocks in Hudson's pocket, and a loaded gun that was lodged between the cushion and armrest of the chair in which he was sitting.

Hudson moved to suppress all the inculpatory evidence, arguing that the premature entry violated his <u>Fourth</u> <u>Amendment</u> rights. The trial court judge suppressed the evidence. The Michigan Supreme Court reversed that ruling, allowing the evidence to be used against him. Hudson appealed to the U.S. Supreme Court.

ISSUE:

Does a violation of the "knock-and-announce" rule require the suppression of all evidence found in the search?

HELD: No--it does not protect one's interest in preventing the government from seeking or taking evidence described in

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a warrant. The exclusionary rule does not apply in this case.

REASONING:

<u>1.</u> The interests protected by the "knock-and-announce" rule include human life and limb (because an unannounced entry may provoke violence from a surprised resident), property (because citizens presumably would open the door upon an announcement, whereas a forcible entry may destroy it), and privacy and dignity of the sort that can be offended by a sudden entrance.

2. Contrary to Hudson's argument that without suppression there will be no deterrence, many forms of police misconduct are deterred by civil-rights suits and by the consequences of increasing professionalism of police forces, including a new emphasis on internal police discipline.

<u>3.</u> When the "knock-and-announce" rule does apply, it is not easy to determine precisely what officers must do. How many seconds' wait are too few? Our "reasonable wait time" standard--see <u>U.S. v. Banks, Legal Bulletin No. 274</u>--held that the proper measure was not how long it would take the resident to reach the door, but how long it would take to dispose of the suspected drugs. The 15-to-20 seconds' time in the Banks' case would necessarily be extended when, for instance, the suspected contraband was not easily concealed.

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