



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 359
February 13, 2012

PROTECTIVE ENTRY OF RESIDENCE

Reference:

Darian Rayburn, et. al.
(Burbank Police Officers)

v.

George R. Huff et. al.

U.S. Supreme Court
U.S.

No. 11-208

January 23, 2012

FACTS:

Burbank, California police responded to a local high school to investigate a rumor that one of the students had written a letter threatening to "shoot up" the school. The student, who was identified as Vincent Huff, had not been to school for two days. One of the students interviewed thought Vincent was capable of carrying out the alleged threat. Police also learned that Vincent was frequently subjected to bullying.

The officers responded to Vincent's residence to continue their investigation. They knocked on the door and received no answer. A telephone call was placed to the residence and the officers could hear it ringing but no one answered. One of the officers then called Mrs. Huff's cell phone which she answered. The officer asked Mrs. Huff where she was and she said she was inside the house. Sgt. Rayburn, who made the call, asked where Vincent was and she said he was inside with her. Sgt. Rayburn informed Mrs. Huff that he and several other officers were outside and would like to speak with her, but Mrs. Huff hung up the phone.

Several minutes later both Mrs. Huff and Vincent walked out of the house and stood on the front steps. The officers informed Vincent that they were there to discuss the threats. Vincent, apparently aware of the rumor, responded: "I can't believe you are here for that." Sgt. Rayburn then asked Mrs. Huff if they could continue the discussion in the house, but she refused. Sgt. Rayburn then asked her if there were any guns in the house at which time she "immediately turned around and ran into the house." Sgt. Rayburn, who was "scared because he didn't know what was in that house" and had "seen too many officers killed," entered the house behind her. The officers, Mrs. Huff and Vincent remained in the living room. Shortly after they entered the house, Mr. Huff, Vincent's father, entered the room and challenged the officers' authority to be there. The officers remained in the house a total of 5 to 10 minutes. No search of the house was conducted and the officers ultimately concluded that the rumor about Vincent was false, and reported their conclusion to the school.

Mr. Huff filed a civil action (§1979, 42 U.S.C. 1983) against Rayburn and the other officers, alleging the officers violated the Huffs' Fourth Amendment rights by entering their home without a warrant. Following a two-day bench trial, the court entered a judgment in favor of the officers. The Huffs appealed and the Ninth Circuit Court of Appeals ruled in the Huffs favor stating "any belief that the officers or any other family members were in serious, imminent harm would have been objectively unreasonable" given that Mrs. Huff merely asserted her right to end her conversation with the officers and returned to her home.

The officers filed an appeal with the U.S. Supreme Court who agreed to hear the case.

ISSUE:

Was it reasonable for the police officers to come to the conclusion that the Fourth Amendment permitted them to make a warrantless entry into the Huff residence if there was an objectively reasonable basis for fearing that violence was imminent?

Held. Yes. The officers made a split-second decision in response to a rapidly unfolding chain of events that culminated with Mrs. Huff running into the house after refusing to answer a question about guns.

REASONING:

1. Officers may enter a residence without a warrant when they have "an objectively reasonable basis for believing that an occupant is . . . imminently threatened with serious injury."
2. The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency.
3. The officers in this case testified that a number of factors led them to be concerned for their own safety and for the safety of other persons in the residence: (1) the unusual behavior of the parents in not answering the door or the telephone; (2) the fact that Mrs. Huff did not inquire about the reason for their visit or express concern that they were investigating their son; (3) the fact that she hung up the phone on the officers; (4) the fact that she refused to tell them whether there were guns in the house; and (5) the fact that she ran back into the house while being questioned.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

File Legal Bulletin No. 359 numerically under Section R of the manual.