



## DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 274  
December 12, 2003

15-TO-20-SECOND WAIT BEFORE  
FORCED ENTRY SATISFIES  
KNOCK-AND-ANNOUNCE REQUIREMENT

**Reference:** United States v. Lashawn Lowell Banks  
United States Supreme Court No. 02-473  
December 2, 2003

**FACTS:**

At approximately 2:00 p.m. on a Wednesday, Las Vegas police and FBI agents executed a search warrant for cocaine at Banks' apartment. They knocked on the door, waited about 15-to-20 seconds and received no response; so they shouted "police" and used a battering ram to make forced entry.

Banks was in the shower and testified that he heard nothing until the crash of the door, which brought him out dripping wet to confront police. The search produced weapons, crack cocaine and other evidence of drug dealing.

Banks argued that all of the evidence should be suppressed because only waiting 15-to-20 seconds before making forced entry was unreasonable under the Fourth Amendment. The Ninth Circuit Court of Appeals agreed with him and the evidence was suppressed. The Government appealed and the U.S. Supreme Court took the case.

**ISSUE:**

Did the officers' 15-to-20-second wait before making forcible entry satisfy the Fourth Amendment?

**HELD:** Yes--reversing the Ninth Circuit Court of Appeals.

**REASONING:**

1. There has never been a dispute that these officers were obliged to knock and announce their intentions when executing the search warrant, an obligation they concededly honored.

2. After 15-to-20 seconds without a response, officers could fairly have suspected that Banks would flush away the cocaine if they remained reticent.

3. The facts known to police are what count in judging a reasonable waiting time and there was no indication that they knew Banks was in the shower, thus unaware of an impending search.

4. The entry here also satisfied 18 U.S.C. § 3109, which permits entry by force "if, after notice of his authority and purpose, he (the officer) is refused admittance."

**NOTES:**

Review of following is recommended:

Legal Bulletin No. 192, Wilson v. Arkansas--knock and announce required by Fourth Amendment.

Legal Bulletin No. 223, U.S. v. Ramirez--"no knock" warrant upheld as "exigent circumstances."

**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. 274 numerically under Section R of the manual.