



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 192
July 7, 1995

"KNOCK AND ANNOUNCE"
REQUIRED BY FOURTH AMENDMENT

Reference: Sharlene Wilson
v.
Arkansas

United States Supreme Court
No. 94-5707
May 22, 1995

FACTS:

Wilson, who shared a home with Byron Jacobs, made a series of narcotics sales to a police informant. During one of the transactions which took place in the residence, Wilson produced a semi-automatic pistol and waved it in the informant's face and threatened to kill her if she turned out to be working for the police.

The following day, police obtained a warrant to search the residence. Upon arrival, police found the main door open. While opening an unlocked screen door and entering the residence, they identified themselves as police officers and stated that they had a warrant. The officers seized drugs, paraphernalia, a gun and ammunition. They also found Wilson in the bathroom, flushing marijuana down the toilet.

Wilson filed a motion to suppress the evidence alledging, among other things, that the officers had failed to "knock and announce" before entering her home.

ISSUE NO. 1:

Does the Fourth Amendment require officers to "knock and announce" prior to entering the residence?

HELD: Yes.

ISSUE NO. 2:

Can there be an exception to this requirement?

HELD: Maybe.

REASONING:

1. The framers of the Fourth Amendment thought the method of an officer's entry into a dwelling was among factors to be considered in answering the reasonableness of a search or seizure. (emphasis added)
2. In some circumstances, an officer's unannounced entry into a home might be unreasonable under the Fourth Amendment.
3. The reasonableness requirement should not be read to mandate a rigid rule of announcement that ignores countervailing law-enforcement interests.
4. Unannounced entry may be justified where police officers have reason to believe that evidence would likely be destroyed if advance notice were given.
5. Although a search or seizure of a dwelling might be constitutionally defective if police officers enter without prior announcement, law-enforcement interests may also establish the reasonableness of an unannounced entry.

NOTES:

This case was remanded back to the Arkansas Supreme Court, who will determine if the facts of this particular case would allow the officers to make an unannounced entry. At any rate, this issue is moot in Alaska because Alaska Statute 12.25.100 already requires Alaskan police officers to "knock and announce."

Under this ruling, Federal law-enforcement officers will be required to articulate their justification for making an unannounced entry into a dwelling while serving a warrant.

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Add this case to Section M, "Warrants, Affidavits and Informants," of your Contents and Text. File Legal Bulletin No. 192 numerically under Section R of the manual.