



SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

LEGAL AFFAIRS

UPDATE

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Except for vehicles, in California, there is no such thing as a community caretaking exception to the 4th Amendment's warrant requirement.

Officers responded to Willie Ovieda's home when his family members reported that he was suicidal and had access to guns. Trevor Case walked outside and told officers that Ovieda began talking about suicide and made multiple attempts to grab guns. Case also advised that he had collected the firearms and placed them in the garage. Case further stated that only his wife and Ovieda were in the house. He did not report any other crimes. Shortly thereafter, Case's wife and Ovieda emerged from the house and Ovieda was placed into custody. Officers then entered the home to do a "protective sweep to secure the premises and make sure no one was armed, injured, or in need of aid." During the sweep, large quantities of guns, ammunition, and drug-producing equipment were discovered and removed from the house and garage. Ovieda was charged with manufacturing a controlled substance, importing an assault weapon, and possessing a silencer and short-barreled rifle. The court denied Ovieda's motion to suppress the evidence. On appeal, the California Supreme Court reversed. *People v. Ovieda*, August 12, 2019.

In analyzing this case, the California Supreme Court began by stating that "both the federal and state Constitutions prohibit unreasonable searches and seizures." "Searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment— subject only to a few specifically established and well- delineated exceptions."

The California Supreme Court recognized the "exigent circumstances" exception as "an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or destruction of evidence." Examples include: hot pursuit of a fleeing suspect; fighting fire; intervening in a physical altercation or crime in progress; or providing

emergency help. However, the California Supreme Court stated that the United States Supreme Court had never applied a nonemergency "community caretaking" exception outside the context of a vehicle inventory. As such, the California Supreme Court decided this case based on whether the officers' entry into the house rose to the level of exigent circumstances.

In determining whether an officer reasonably believes that exigent circumstances apply, a court considers specific and articulable facts from which the officer concludes that his or her entry is necessary. Unparticularized suspicions, or "hunches" are not enough without objective facts that elevate speculation to reasonable suspicion.

Here, the People provided no evidence to show that the officers reasonably believed that exigent circumstances applied. The officers stated that they were "'unsure if all parties were accounted for,' did not have a clear picture of what had caused the situation, and 'felt duty bound to secure the premises' and make sure there was no one else inside who might be armed, injured, or in need of aid." However, Ovieda was in custody and the only people identified as present when law enforcement arrived, were outside of the house. Further, the officers did not state that they had reason to believe someone else was actually in the house, nor did they mention noise or movement in the house causing concern. As such, the Court found that there was not exigent circumstances warranting immediate entry.

According to the Court, once the premises was vacated, and there was no indication that anyone was still inside the residence, a subsequent warrantless entry or search was not justified.

WHAT THIS MEANS:

A deputy may conduct a warrantless entry and search pursuant to the exigent circumstances exception if he or she has *specific and articulable facts* that illustrate a reasonable belief that a person is in need of immediate aid.