

Recent Case Report

U.S. v. Snipe

(9th Cir. 2008) __ F.3d __ [2008 WL 216996]

ISSUE

Did exigent circumstances justify a warrantless entry into the defendant's home?

FACTS

At about 5 A.M., an “hysterical male” phoned the Fort Hall Police Department in Idaho on a non-emergency line and “screamed,” *Get the cops here now!* After the man gave his address, the phone line was disconnected. Two officers were dispatched to the call “code three.” As they walked up to the house, they noticed that the lights were on inside, and the front door was ajar.

When one of the officers knocked on the door, it opened wider, and both officers entered. As they did so, they saw several people sitting around a kitchen table, all of whom “reacted with surprise,” probably because there was a “large amount of drugs” on the table.

Although the officers saw the drugs, they did not let on. Instead, they told the people about the frantic phone call and, after determining that no one needed help, they went back to the office and applied for a search warrant. The subsequent search netted a firearm, in addition to the drugs. As a result, Snipe was charged with possession of a firearm with an obliterated serial number. Snipe filed a motion to suppress the evidence, claiming that the officers had insufficient reason to believe that an emergency entry was necessary. When the court denied the motion, he pled guilty.

DISCUSSION

By way of background, there are actually three types of exigent circumstances: (1) emergency aid, (2) investigative emergencies (such as destruction of evidence and hot pursuit), and (3) community caretaking. Although they all have certain requirements, an entry to render emergency aid or otherwise protect a person or property is so obviously justified that a warrantless entry will be permitted if the following circumstances existed:

- (1) **Need outweighs intrusiveness:** The need for the entry must have outweighed its intrusiveness.¹

¹ See *Illinois v. Lidster* (2004) 540 U.S. 419, 426 [“[I]n judging reasonableness, we look to the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty.”]; *Maryland v. Buie* (1990) 494 U.S. 325, 331 [“Our cases show that in determining reasonableness, we have balanced the intrusion on the individual’s Fourth Amendment interests against its promotion of legitimate governmental interests.”]; *People v. Ray* (1999) 21 Cal.4th 464, 470 [“Under the emergency aid exception, police officers may enter a dwelling without a warrant to render aid and assistance to a person whom they reasonably believe to be in distress and in need of that assistance.”]. *Henderson v. Simi Valley* (9th Cir. 2002) 305 F.3d 1052, 1059 [“[W]e must now assess the constitutionality of

(2) **Motivation:** If the degree of proof that an emergency exists is less than probable cause, the officers' primary motivation for entering must have been to prevent or minimize the harm, not to obtain evidence.²

(3) **Actions reasonably necessary:** The officers' actions must have been reasonably necessary.³

In *Snipe*, the defendant challenged the first requirement, claiming there was insufficient proof that an emergency existed because, (1) the caller had not identified himself before the line was disconnected; and (2) the officers saw nothing before entering that tended to confirm there was, in fact, an emergency.

Although it was true that the caller had not identified himself, the court refused to rule that some verification or corroboration must always exist before officers may enter a residence in response to a call that appears to be reliable. Such a requirement, said the court, "would dramatically slow emergency response time, and would therefore be at odds with the purpose of the emergency doctrine—allowing police to respond to emergency situations in a timely manner."

Instead, as the court explained, the legality of the entry depends on whether the officers had reason to believe that an emergency existed. And here, said the court, there were at least three reasons: (1) the door to the house was ajar; (2) although it was 5 A.M., the lights in the house were on; and (3) the operator had informed the officers that the caller was "hysterical." While it is, of course, possible that a malicious caller could feign hysteria, the court ruled that officers could consider the caller's apparent mental state as a circumstance supporting their decision to enter. Said the court, "We will not impose a duty of inquiry on the police to separate a true cry for help from a less deserving call for attention because the delay may cost lives that could have been saved by an immediate police response."

Consequently, the court ruled the officers' entry was justified because they "had an objectively reasonable basis to believe there was an immediate need to protect others from serious harm when they entered the Snipe residence." POV

the ['special needs'] search by balancing the need to search against the intrusiveness of the search."].

² See *Whren v. United States* (1996) 517 U.S. 806, 811 ["But only an undiscerning reader would regard these cases as endorsing the principle that ulterior motives can invalidate police conduct that is justifiable on the basis of probable cause"]; *Indianapolis v. Edmond* (2000) 531 U.S. 32, 45-6 ["*Whren* reinforces the principle that, while subjective intentions play no role in ordinary probable-cause Fourth Amendment analysis, programmatic purposes may be relevant to the validity of Fourth Amendment intrusions undertaken pursuant to a general scheme without individualized suspicion."]; *Brigham City v. Stuart* (2006) 547 U.S. __ [because the officers had probable cause to believe an emergency existed, it did not matter "whether the officers entered the kitchen to arrest respondents and gather evidence against them or to assist the injured and prevent further violence."].

³ See *Mincey v. Arizona* (1978) 437 U.S. 385, 393 ["[A] warrantless search must be strictly circumscribed by the exigencies which justify its initiation."]; *People v. Gentry* (1992) 7 Cal.App.4th 1255, 1261, fn.2 ["The nature of the exigency defines the scope of the search"].