

Illinois v. McArthur

(February 20, 2001) __ US __

ISSUE

Under what circumstances may officers prevent a person from entering his home pending issuance of a warrant to search the premises?

FACTS

Accompanied by two police officers, Tera McArthur went to the trailer house she shared with her estranged husband to remove her belongings. While the officers waited outside, she went inside and removed her things. When she came outside, she told the officers that her husband, Charles McArthur, had just hidden some "dope" underneath the sofa.

One of the officers knocked on the door and told McArthur what Tera had said and sought his consent to search the trailer. When McArthur refused, one of the officers left to seek a search warrant. Because of the probability that McArthur would flush the drugs down the toilet if he had the opportunity, the officer who remained at the trailer told McArthur he would have to remain outside. While they waited, however, the officer allowed McArthur to go inside two or three times to get cigarettes and phone calls, but each time the officer "stood just inside the door."

The warrant was issued less than two hours after the trailer had been secured. Under the sofa, officers found a small amount of marijuana and a marijuana pipe.

DISCUSSION

McArthur claimed the officers' refusal to allow him to enter his home constituted a violation of the Fourth Amendment and, therefore, the evidence should be suppressed. The Court disagreed, ruling the officers' conduct was justified by exigent circumstances.

The term "exigent circumstances" is used to describe an emergency situation in which there is a "compelling need for official action and no time to secure a warrant."¹ If exigent circumstances exist, officers are permitted to do those things that are reasonably necessary to abate the exigency. In determining what is "reasonably necessary," the courts balance the need or justification for the officers' actions against the intrusiveness of those actions.²

To determine the justification for the officers' actions, the courts ask: What was the potential magnitude of the emergency?³ For example, did officers reasonably believe a life was in jeopardy or that crucial evidence in a felony might be destroyed if immediate action was not taken? Or was there merely a remote possibility that evidence of a minor crime would be destroyed?⁴

To determine the intrusiveness of the officers' actions, the courts look at the extent to which the officers infringed on the privacy or possessory interests of the suspect and whether, or to what extent, officers damaged or destroyed property. For example, if the officers' actions consisted of a warrantless search of a house, the intrusiveness of the search would depend on its length and intensity.⁵

Applying these principles to the facts in *McArthur*, the Court ruled as follows:

JUSTIFICATION FOR SEALING THE TRAILER: As noted, the sole justification for sealing the trailer was the possibility that *McArthur* would destroy the "dope" if he were allowed to remain inside. The Court concluded this was a legitimate concern because, (1) the officers had probable cause to believe there were drugs in the trailer,⁶ and (2) they had "good reason to fear that, unless restrained, *McArthur* would destroy the drugs before they could return with a warrant."⁷ Although it is true the "dope" turned out to be a small quantity of marijuana, it appears that *Ms. McArthur* did not know, or did not tell the officers, exactly what kind or kinds of "dope" or how much of it *McArthur* had hidden under the sofa.⁸

INTRUSIVENESS OF THE OFFICERS' ACTIONS: The officers' actions were restrained and reasonably necessary under the circumstances. As the Court observed: "[T]he police made reasonable efforts to reconcile their law enforcement needs with the demands of personal privacy. They neither searched the trailer nor arrested *McArthur* before obtaining a warrant. Rather, they imposed a significantly less restrictive restraint, preventing *McArthur* only from entering the trailer unaccompanied. They left his home and his belongings intact-until a neutral Magistrate, finding probable cause, issued a warrant. [Finally], the police imposed the restraint for a limited period of time, namely, two hours."

Consequently, the Court ruled the evidence should not be suppressed because the officers acted lawfully when they prevented *McArthur* from entering his trailer.

DA's COMMENT

McArthur does not break any new ground for California law enforcement because our courts have been applying the same type of analysis whenever officers take action based on exigent circumstances. Specifically, the courts determine the justification for the officers' action and the extent to which the action intruded on the suspect's reasonable privacy or possessory interests.⁹ Then, if the need for the action outweighed its intrusiveness, the action is deemed lawful. Otherwise, it is unlawful.

McArthur is, however, a good illustration of something the courts like to see in police action: restraint-doing only those things that are reasonably necessary. As the Court noted, the officers who prevented *McArthur* from entering his home "imposed a restraint that was both limited and tailored reasonably to secure law enforcement needs while protecting privacy interests."

¹ See *Michigan v. Tyler* (1978) 436 US 499, 509; *People v. Ortiz* (1995) 32 Cal.App.4th 286, 291-2.

² See *People v. Glaser* (1995) 11 Cal.4th 354, 367-8; *People v. Wilson* (1997) 59 Cal.App.4th 1053, 1059-60.

³ See *Maryland v. Buie* (1990) 494 US 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."].

⁴ See *People v. Glaser* (1995) 11 Cal.4th 354, 367-8; *People v. Wilson* (1997) 59 Cal.App.4th 1053, 1059-60.

⁵ See *Maryland v. Buie* (1990) 494 US 325, 331; *Mincey v. Arizona* (1978) 437 US 385, 391 [claim that exigent circumstances justified a search "is hardly tenable in light of the extensive nature of this search."].

⁶ NOTE: The Court pointed out that Tera McArthur had actually seen her husband hide the drugs and that the officers reasonably believed she was reliable.

⁷ NOTE: The Court noted that the officers "reasonably might have thought that McArthur realized that his wife knew about his marijuana stash; observed that she was angry or frightened enough to ask the police to accompany her; saw that after leaving the trailer she had spoken with the police; and noticed that she had walked off with one policeman while leaving the other outside to observe the trailer. They reasonably could have concluded that McArthur, consequently suspecting an imminent search, would, if given the chance, get rid of the drugs fast."

⁸ NOTE: In his dissenting opinion, Justice Stevens complained that the crime-possession of a small amount of marijuana was rather insignificant. But he overlooked the fact that the officers did not know exactly what kind or how much "dope" was hidden under the sofa. This was important because it is settled that the reasonableness of an officer's action depends on the objective circumstances known to the officer at the time the intrusion was made, not the circumstances that came to light afterward. See *Terry v. Ohio* (1968) 392 US 1, 21-2. A better line of inquiry for the Justice would have been whether the officers, before taking action, had a duty to ask Tera McArthur if she knew the type and quantity of drugs were hidden under the sofa.

⁹ See *People v. Glaser* (1995) 11 Cal.4th 354, 367-8; *People v. Wilson* (1997) 59 Cal.App.4th 1053, 1059-60.