

Recent Case Report

Hudson v. Michigan

(2006) __ U.S. __ [2006 WL 1640577]

ISSUE

If officers obtain evidence while executing a warrant to search a residence, can the evidence be suppressed on grounds the officers entered without complying with the knock-notice rule?

FACTS

Officers in Michigan obtained a warrant to search Hudson's home for drugs and firearms. When they arrived, they announced their presence but waited only three to five seconds before entering. During the subsequent search, they seized a gun and "large quantities" of drugs.

DISCUSSION

The state of Michigan conceded that the officers violated the knock-notice rule when they waited only three to five seconds before entering. Consequently, the question before the United States Supreme Court was whether evidence can be suppressed as the result of a knock-notice violation.

Until now, it was assumed that any evidence obtained as the result of a knock-notice violation must be suppressed. This was so even though the evidence was seized pursuant to an unquestionably valid search warrant. In *Hudson*, however, the United States Supreme Court concluded that the "massive remedy" of evidence suppression is no longer justified. The Court's reasons were as follows:

- **DISCOVERY WAS INEVITABLE:** Unlike illegal searches, knock-notice violations do not directly result in the discovery of evidence. On the contrary, the evidence would have been discovered regardless of the violation because a judge had issued a warrant to search for it.¹
- **HIGH COST:** Suppression is an appropriate remedy for police misconduct only if the benefits of suppression outweigh its costs.² Plainly, the costs of suppression are "substantial" because, said the Court, they result in "setting the guilty free and the dangerous at large."

¹ **NOTE:** In many cases, it is apparent that the suspects would have been able to dispose of the evidence if the officers had waited longer at the door in order to comply with the knock-notice requirements. In that sense, it might be said that the evidence was seized as the result of the knock-notice violation. But because suspects do not have a constitutional right to destroy evidence, the courts have never been receptive to such arguments.

² See *United States v. Leon* (1989) 468 U.S. 897, 907.

- **VAGUE RULES:** The requirement that officers give the occupants time to answer the door is hazy. As the court pointed out, “How many seconds’ wait are too few? Our ‘reasonable wait time’ standard is necessarily vague.”
- **EXTENSIVE LITIGATION:** Because the rules are vague, motions to suppress based on knock-notice violations are commonplace and result in “extensive litigation.”
- **DANGER TO OFFICERS:** Because evidence may be suppressed, officers may be inclined “to wait longer than the law requires—producing preventable violence against officers in some cases, and the destruction of evidence in many others.”
- **OTHER REMEDIES:** If a suspect thinks that officers entered his residence in an unreasonable manner, he can sue them. As the Court pointed out, “As far as we know, civil liability is an effective deterrent here.” In addition, there is “internal discipline” which, as the Court pointed out, “can limit successful careers.”
- **POLICE PROFESSIONALISM:** Over the past 50 years, law enforcement has become a profession, with “wide-ranging reforms in the education, training, and supervision of police officers.”³ As the Court pointed out, “Numerous sources are now available to teach officers and their supervisors what is required of them under this Court’s cases, how to respect constitutional guarantees in various situations, and how to craft an effective regime for internal discipline.”

For these reasons, the Court ruled that when officers obtain evidence while executing a warrant to search a residence, the evidence can no longer be suppressed on grounds that the officers entered without complying with the knock-notice rule.

COMMENT

Hudson is especially important because it provides officers with much more leeway in determining how best to make entry when executing search and arrest warrants. Knock-notice is not, however, a dead letter. As discussed above, there are some good reasons for complying that have nothing to do with evidence suppression. It is especially important to keep in mind that compliance—full or partial—may help reduce tragic incidents in which officers are mistaken for burglars or robbers.⁴ POV

³ Quoting from S. Walker, *Taming the System: The Control of Discretion in Criminal Justice* 1950-1990, p.51 (1993).

⁴ See *Greven v. Superior Court* (1969) 71 Cal.2d 287, 293 “[F]ew actions are as likely to evoke violent response from a householder as unannounced entry by a person whose identity and purpose are unknown to the householder.”]; *People v. Webb* (1973) Cal.App.3d 460, 466 [“One particular officer may be willing to risk the chance of sudden violence, but the rule with its exclusionary result is also directed toward the protection of his fellow officers and to other persons by reason of its deterrent effect.”]; *People v. Rosales* (1968) 68 Cal.2d 299, 304 [“[Knock-notice] serves to preclude violent resistance to unexplained entries and to protect the security of innocent persons who may also be present on premises where an arrest is made.”].