

U.S. v. Contreras

(7th Cir. 2016) __ F.3d __ [2016 WL 1567035]

Issue

Did exigent circumstances justify a warrantless entry into a residential garage to recover drugs?

Facts

DEA agents and Chicago police followed a suspected drug trafficker named Soto as he drove from his home to a nearby dumpster into which he discarded several items. When he left, officers inspected the dumpster and found several items trafficking-related items, such as aluminum foil molded into a brick-shape about the size of a kilo of cocaine. As Soto drove away from the dumpster, other officers followed him as he went to the home of Luis Contreras where he drove directly into Contreras's two-car garage and closed the door. The officers staked out the home, and one of them took up a position facing the garage door.

After a short while, the door opened completely and the officer had a "very clear" view of Soto and Contreras exchanging something that, according to the officer, "indicated the passing of money or drugs." Soto then walked to his van which was also parked inside the garage, and he removed an orange shoebox with tape around the outside. The box was not, however, entirely secured with tape. As Soto was walking with the box toward Contreras, the box "buckled" and fell to the ground, at which point "a rectangular white object wrapped in plastic fell out." The officer testified that "he recognized the object as a kilogram of narcotics. Officers then rushed into the garage, arrested both men and seized the contents of the shoebox, which was five kilograms of cocaine.

Officers then *Mirandized* Contreras who waived his rights and admitted that there were 2.5 kilograms of cocaine in one of the closets. The officers seized all of the cocaine and Contreras was indicted for, among other things, conspiracy to possess and distribute 500 or more grams. When his motion to suppress the evidence was denied, he plead guilty to the conspiracy charge.

Discussion

Contreras argued that the evidence should have been suppressed because (1) the officer violated his right to privacy when he looked into the garage, (2) the subsequent warrantless entry into the garage was unlawful because there were no exigent circumstances, and (3) his confession was involuntary because he was traumatized by the sudden arrival of the officers.

The first and third arguments were frivolous. As for Contreras's right to privacy, the court ruled that he didn't have one because he and Soto "conducted their drug transaction in an attached garage with the door wide open—in essence with one whole wall of the house removed by their choice and displaying their drug transaction in plain view." As for Contreras's confession, the court summarily disposed of his claim that he was traumatized by point out, among other things, that by the time he confessed "the heat of the situation de-escalated quickly" and Contreras's handcuffs had been removed.

The more important issue was whether the warrantless entry into the garage was lawful under the exigent circumstances exception to the warrant requirement. Per this exception, a warrantless entry or search of private property is permitted if the need for

police action—it's urgency—outweighed its intrusiveness.¹ As the Supreme Court explained, “[W]e balance the privacy-related and law enforcement-related concerns to determine if the intrusion was reasonable.”² Here, there were two legitimate law enforcement interests that were served by the warrantless entry: (1) taking into custody two men who had just engaged in what looked to be a hand-to-hand, multi-kilogram cocaine transaction, and (2) preventing the men from destroying the kilogram that had just fallen to the floor. Because these were both weighty law enforcement interests, and because Contreras’s right to privacy became nonexistent when the garage door opened, the court ruled that exigent circumstances did, in fact, exist. Accordingly, it affirmed Contreras’s conviction. POV

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¹ See *Brigham City v. Stuart* (2006) 547 US 398, 404 [a police action is reasonable “as long as the circumstances, viewed objectively, justify the action”]; *Illinois v. Lidster* (2004) 540 US 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.”]; *Rogers* (2009) 46 C4 1136, 1160 [“[T]he relevant inquiry remains whether, in light of all the circumstances, there was an objectively urgent need to justify a warrantless entry.”].

² *Illinois v. McArthur* (2001) 531 US 326, 331.