

People v. Pou

(2017) __ Cal.App.5th __ [2017 WL 1505918]

Issue

Did the “emergency aid” exception to the warrant requirement justify a warrantless entry and protective sweep of a home?

Facts

At about noon, LAPD officers were dispatched to a residence to investigate a report of a “screaming woman” inside and the sounds of “distressed moaning.” The officers responded Code 3. When they arrived, they walked up to the front door where they could hear several men and woman inside arguing “very loud.” They could also see two men “making gestures similar to that of people engaged in an argument.” The officers knocked and announced “multiple times” but received no immediate response.

Eventually, a man identified as Alexander Pou opened the door and the officers explained that they had received a call about a woman screaming and they needed “to come in and look” for her “to make sure everybody was okay.” Pou told them he did not want them to enter but they did so nevertheless. As they entered, they saw two women sitting on a sofa in the living room and confirmed they were “okay.” They then conducted a protective sweep for the woman who had been screaming but they did not find anyone else in the apartment. They did, however, notice drugs in plain view inside a bedroom closet.

Narcotics officers responded to the scene and obtained a warrant to search the premises. In the course of the search, they found cocaine and ecstasy. Pou was charged with possession and, when his motion to suppress the drugs was denied, he pled guilty.

Discussion

On appeal, Pou argued that the drugs should have been suppressed because the officers’ warrantless entry was unlawful. The People responded that the entry was permissible under the so-called emergency aid exception to the warrant requirement. The court agreed.

An entry or search is permitted under the emergency aid exception if the officers reasonably believed that someone on the premises needed immediate police or medical assistance.¹ Such a belief may be based on circumstantial evidence, and it does not require probable cause.² As the California Supreme Court explained, “[T]he relevant inquiry [is] whether, in light of all the circumstances, there was an objectively urgent need to justify a warrantless entry.”³

THE EMERGENCY: The most urgent of the various emergencies is an imminent threat to a person’s life or safety. So the issue in *Pou* was whether the officers reasonably believed that such a threat existed. And here, there were several items of circumstantial evidence that supported such a belief: (1) a caller had reported hearing a woman screaming inside the residence; (2) when the officers arrived they could hear the sounds of people arguing

¹ See *Brigham City v. Stuart* (2006) 547 US 398, 404.

² See *People v. Troyer* (2011) 51 Cal.4th 599, 605-606.

³ *People v. Rogers* (2009) 46 Cal.4th 1136, 1160. Also see *Mora v. City of Gaithersburg* (4C 2008) 519 F3 216, 224 [“As the likelihood, urgency, and magnitude of a threat increase, so does the justification for and scope of police preventive action.”].

inside, at least one of whom was a woman; (3) the officers saw that two men in the apartment were “gesturing as if arguing”; and (4) there appeared to be an unreasonable delay before any occupants opened the door after the officers knocked and announced. Accordingly, the court ruled that the officers’ initial entry into the house was lawful.

THE SWEEP: As noted, when the officers entered, they immediately conducted a brief search of the apartment to see if they could find the woman who had reportedly been screaming. Such a search is known as a protective sweep or “walk through” which consists of a quick tour through a residence, looking in places where a person in need of immediate police assistance might be found.⁴ Pou contended, however, that the officers could not have reasonably believed there was a woman on the premises whose life was threatened because both of the women in the living room said they were “okay”. That was true, said the court, but it did not eliminate the need for a sweep because the officers could not be sure that either of these woman had been screaming. In addition, the court noted that the women on the sofa might have been under compulsion or they, themselves, might have been the attackers.⁵

Consequently, the court ruled that the officers’ search of the premises constituted a legal protective sweep because the officers “had yet to find the screaming woman whom they reasonably could have concluded under the circumstances had been hidden away, harmed further, or silenced in some other part of the large house after the police had alerted the occupants to their presence.” For these reasons, the court ruled that the officers’ entry and search of the premises was lawful and, consequently, it concluded that the trial court correctly ruled that the drugs were admissible at trial. POV

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⁴ See *Maryland v. Buie* (1990) 494 U.S. 325, 327 [“A ‘protective sweep’ is a quick and limited search of premises, incident to an arrest and conducted to protect the safety of police officers or others. It is narrowly confined to a cursory visual inspection of those places in which a person might be hiding.”].

⁵ Also see *Causey v. City of Bay City* (6th Cir. 2006) 442 F.3d 524, 530 [officers reasonably believed that an emergency existed even after receiving assurances that no one was injured”].