Recent Case Report

Date posted: January 26, 2012
Date revised: February 6, 2012

Ryburn v. Huff

(2012) __ U.S. __ [2012 WL 171121]

Issue

Did exigent circumstances justify a warrantless entry by officers into the home of a teenager who was reportedly planning to "shoot up" his school?

Facts[1]

The principal of a Catholic high school in Burbank notified officers that a rumor had been circulating that a student named Vincent Huff was going to "shoot up" the school. The principal, Sister Milner, explained that Vincent had been absent from school for the past two days, that some parents who had heard the rumor were so worried that they were keeping their children at home, and that she was "concerned about the threat and the safety of her students." The officers then spoke with some of Vincent's classmates who said that Vincent "was frequently subjected to bullying" and that he "was capable of carrying out the alleged threat." The officers, having been trained on "targeted school violence," were aware that bullying and absences from school "are common among perpetrators of school shootings." So they decided to go to Vincent's home and talk to him.

When they knocked and announced, no one answered the door so they phoned the residence and, although they could hear the phone ringing, no one answered. An officer then placed a call to the cell phone of Vincent's mother, Maria Huff. She answered the phone and admitted that she and Vincent were inside but, after the officer explained the situation, she hung up.

About two minutes later, Ms. Huff and Vincent walked outside and stood on the front steps. When one of the officers explained that they wanted to "talk about some threats at the school," Vincent responded, "I can't believe you're here for that." Another officer asked Maria Huff if they could go inside to talk about the matter, but she said no. The officer then asked if there were any guns in the house, at which point she "immediately turned around and ran into the house" followed by Vincent—and two officers. The officers left the house a few minutes later after satisfying themselves that the rumor was unfounded.

When one of the officers was asked at trial why he entered the house, he testified it was "because of, again, the threat that he was going to blow up or shoot up the school. I wanted to make sure neither one of them could access any weapons from inside the house, and that's where they normally get the weapons from is from either their parents or relatives or friends."

The Huffs sued the officers and the City of Burbank in federal court (seeking money damages), claiming that the officers' act of entering their living room without a warrant constituted a violation of the Fourth Amendment. Following a bench trial, the district

[1] **NOTE**: Some of the facts were taken from the Court of Appeals decision, *Huff* v. *City of Burbank* (9th Cir. 2011) 632 F.3d 539.

court ruled that the officers' entry was justified by exigent circumstances. The Huffs appealed to the Ninth Circuit.

In an opinion by Chief Judge Alex Kozinski and written by Algenon L. Marbley (a district court judge from Ohio on temporary assignment to the Ninth Circuit), the court reversed the district court, ruling that exigent circumstances did not exist because, in the opinion of the two judges, "any belief that the officers or other family members were in serious, imminent harm would have been objectively unreasonable." The officers and the City of Burbank appealed to the United States Supreme Court.

Discussion

In a *per curiam* (unanimous) opinion, the Supreme Court ruled that Judges Kozinski and Marbley were quite wrong in their conclusion that the officers lacked sufficient reason to believe that an immediate entry was necessary. As the Court pointed out, "No decision of this Court has found a Fourth Amendment violation on facts even roughly comparable to those present in this case." It was also apparent that the Supreme Court was distressed by the arrogant manner in which the two judges purported to resolve the matter.

Of particular importance, the Court concluded that the judges, while claiming to have accepted the findings of the district court judge, had misrepresented (i.e., "changed") those findings "in several key respects." Specifically, the judges asserted that when Mrs. Huff was asked if there were any guns in the house, she "merely asserted her right to end her conversation with the officers and returned to her home." But that is not what happened. The district court determined that she "immediately turned around and ran into the house." And, as one of the officers testified, it was this unusual and highly suspicious action that precipitated the decision to enter.

The Supreme Court also ruled that, in addition to tinkering with the facts, Judges Kozinski and Marbley had announced a new rule of law that defied common sense. Specifically, the judges concluded that a person's actions (i.e., Mrs. Huff's running into the house) cannot be regarded as a matter of concern if such conduct was "lawful." But, as the Supreme Court observed, "It should go without saying that there are many circumstances in which lawful conduct may portend imminent violence."

There was more. The two judges disregarded the Supreme Court's repeated instructions that the reasonableness of an officer's actions depends on an examination of the totality of circumstances.[2] As the Court pointed out, the judges "looked at each separate event in isolation and concluded that each, in itself, did not give cause for concern." The Court added that "it is a matter of common sense that a combination of

[2] See *Illinois* v. *Gates* (1983) 462 U.S. 213, 230-1 ["The totality-of-the-circumstances approach is far more consistent with our prior treatment of probable cause than is any rigid demand that specific 'tests' be satisfied."]; *Illinois* v. *Wardlow* (2000) 528 U.S. 119, 136 ["The totality of the circumstances, as always, must dictate the result."]; *United States* v. *Arvizu* (2002) 534 U.S. 266, 273 ["[W]e have said repeatedly that [the lower courts] must look at the totality of the circumstances of each case"]; *Maryland* v. *Pringle* (2003) 540 U.S. 366, 371 [the existence of probable cause "depends on the totality of the circumstances"]; *United States* v. *Sokolow* (1989) 490 U.S. 1, 9 ["Any one of these factors is not by itself proof of any illegal conduct and is quite consistent with innocent travel. But we think taken together they amount to reasonable suspicion."].

events each of which is mundane when viewed in isolation may paint an alarming picture."

Finally, the Court reproached the judges for disregarding another basic rule: In determining whether exigent circumstances exist, judges must not engage in unrealistic second-guessing, especially when, as here, the officers were facing what reasonably appeared to be a life-and-death situation. As the Supreme Court put it, Judges Kozinski and Marbley, "far removed from the scene and with the opportunity to dissect the elements of the situation—confidently concluded that the officers really had no reason to fear for their safety or that of anyone else." In reality, said the Court, the officers reasonably concluded that such a threat existed based on the "rapidly unfolding chain of events that culminated with Mrs. Huff turning and running into the house after refusing to answer a question about guns."

For these reasons, the Court ruled that the officers did not violate the Huff's Fourth Amendment rights when they entered their house, and it remanded the case to the Ninth Circuit with instructions to dismiss it. POV