

Recent Case Report

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Sanchez v. Canales

(9th Cir. 2009) __ F.3d __ [2009 WL 2256695]

Issue

When conducting parole and probation searches of homes, may officers detain the occupants pending completion of the search?

Facts

Due to numerous robberies in the LAPD's Wilshire Division, the department's Career Criminal Detail began conducting probation searches of homes that were, (1) located in the Wilshire Division, and (2) occupied by probationers who had prior arrests for robbery. One of the people on the list was Oscar Sanchez who was living with his parents.

When officers knocked on the door at 6 A.M., Sanchez's sister started to open the door but closed it when she saw it was the police. The officers continued to knock and demand to see Oscar. Apparently yelling through the door, Oscar's mother repeatedly told the officers that Oscar was in prison. She then opened the latch on the door, at which point the officers forced their way in. After removing everyone from the house, they conducted the search during which nothing incriminating was found. Officers later confirmed that Oscar was, in fact, serving time in prison.

The family subsequently filed a federal civil rights action against the officers, claiming that officers who are conducting parole or probation searches do not have the authority to detain anyone other than the parolee or probationer. When the district court refused to grant the officers' motion for qualified immunity, they appealed to the Ninth Circuit.

Discussion

Although the United States Supreme Court has ruled that officers may ordinarily detain the occupants of a home they are searching pursuant to a warrant,¹ there is no direct authority for detaining the occupants of homes that are being searched pursuant to the terms of probation or parole. Until now.

In *Sanchez*, the Ninth Circuit ruled that there is no logical reason to distinguish between warranted searches of homes and probation-parole searches because, in both situations, the officers have an obvious need to take such action to secure the scene. As the court explained:

[A] search warrant is not, of course, the only basis for a heightened suspicion that a home's occupants might be involved in criminal activity. The very same concern applies here: as the Supreme Court has previously explained, "parolees are more likely than ordinary citizens to commit future criminal offenses."²

Consequently, the court ruled that "officers may constitutionally detain the occupants of a home during a parole or probation compliance search." [POV](#)

¹ See *Muehler v. Mena* (2005) 544 U.S. 93.

² Quoting *Samson v. California* (2006) 547 U.S. 843, 853.