Stanton v. Sims

(2013) __ U.S. __ [2013 WL 5878007]

Issue

Was an officer "plainly incompetent" for making a warrantless entry into a residence to apprehend a suspect wanted for only a misdemeanor?

Facts[1]

At about one o'clock in the morning, La Mesa police officer Mike Stanton and his partner were dispatched to a report of an "unknown disturbance" in an area known for gang violence. When they arrived, the only people in the area were three men who were walking in the street. Upon seeing the patrol car, two of the men went into an apartment complex and the third man "ran or quickly walked" toward a house that was completely enclosed by a tall fence.

The officer decided to go after the third man and arrest him for, at least, delaying or obstructing an officer in the performance of his duties, a misdemeanor.[2] Consequently, Stanton yelled "police" and ordered the man to stop but, after looking "directly" at the officer, the man opened the gate and entered the front yard. The gate immediately closed behind him so, when Stanton arrived, he kicked it open. It so happened that the owner of the home, Drendolyn Sims, was standing behind the gate talking with friends. And when the gate flew open, it hit Ms. Sims and caused "serious injuries."

Ms. Sims sued the officer in federal court alleging that his entry into her front yard constituted a "search" under the Fourth Amendment, and that the search was not justified by exigent circumstances. The district court dismissed the suit, ruling that the officer was entitled to qualified immunity. Ms. Sims appealed to the Ninth Circuit which reversed the decision. (Our report on the Ninth Circuit's decision was published in the Spring-Summer 2013 edition.) Officer Stanton appealed to the United States Supreme Court.

Discussion

In its decision, a panel of the Ninth Circuit ruled that Officer Stanton was not entitled to qualified immunity from liability because he was "plainly incompetent"[2] for making a warrantless entry into Ms. Sims' yard. Although the panel was aware of the "hot pursuit" exception to the warrant requirement, it ruled that the exception did not apply when, as here, officers are chasing a person who was wanted for only a misdemeanor. "The possible escape of a fleeing misdemeanant," said the panel, "is not generally a serious enough consequence to justify a warrantless entry." Moreover, the panel concluded that this "rule" is so well known—so "clearly established"—that Officer Stanton's failure to apply it made him ineligible for qualified immunity.

But in a strongly-worded and unanimous rebuke, the U.S. Supreme Court reversed the panel's decision. And it did so in a short *per curiam* opinion which essentially meant

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[1] **NOTE**: Some of these facts are taken from the Ninth Circuit's decision. See *Sims v. Stanton* (9th Cir. 2013) 706 F.3d 954.

[2] See *Ashcroft v. al-Kidd* (2011) __ U.S. __ [131 S.Ct. 2074, 2085] ["Qualified immunity gives government officials breathing room to make reasonable but mistaken judgments about open legal questions. When properly applied, it protects all but the plainly incompetent or those who knowingly violate the law."].

that all nine members of the Court agreed that the panel's opinion was so obviously wrong—so plainly incompetent—that an extended discussion of its errors would be futile. Not surprisingly, the Ninth Circuit's opinion was written by Judge Stephen Reinhardt who has a long history of writing opinions that are, to say the least, defective.

The reasons for the Supreme Court's ruling can be summarized as follows. First, Judge Reinhardt's opinion was based on sloppy research and inept reasoning. Among other things, the Supreme Court pointed out, "In its one-paragraph analysis on the hot pursuit point, the panel relied on two cases …. Neither case clearly establishes that Stanton violated Sims' Fourth Amendment rights."

Second, not only did Judge Reinhardt distort these rulings, his other research on the subject was so careless or superficial that it failed to disclose that there is, in fact, no "clearly established" rule on the subject of pursuits in misdemeanor cases. As the Supreme Court observed, "[F]ederal and state courts nationwide are sharply divided on the question whether an officer with probable cause to arrest a suspect for a misdemeanor may enter a home without a warrant while in hot pursuit of that suspect." Worse yet, the Court pointed out that in 2008 and 2010 two federal district courts—*both located in the Ninth Circuit*—"granted qualified immunity precisely because the law regarding warrantless entry in hot pursuit of a fleeing misdemeanant is not clearly established."

Third, there are two California cases—*People v. Lloyd*[3] and *In re Lavoyne M.*[4]—in which the Court of Appeal ruled that the "hot pursuit" exception does, in fact, apply to misdemeanor chases. Taking note of these cases, the Supreme Court said:

> It is especially troubling that the Ninth Circuit would conclude that Stanton was plainly incompetent—and subject to personal liability for damages—based on actions that were lawful according to the courts in the jurisdiction where he acted.

Although it was disappointing that the Supreme Court did not take the opportunity to clear up the confusion that exists in some states as to whether the hot pursuit exception applies in misdemeanor chases, it said nothing to undermine the California rule which it set forth as follows: "Where the pursuit into the home was based on an arrest set in motion in a public place, the fact that the offenses justifying the initial detention or arrest were misdemeanors is of no significance in determining the validity of the entry without a warrant."[5] POV

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[3] (1989) 216 Cal.App.3d 1425.
[4] (1990) 221 Cal.App.3d 154.
[5] Quoting from *People v. Lloyd* (1989) 216 Cal.App.3d 1425, 1430. **NOTE**: Although we signaled out Judge Reinhardt in our report (for good reason), the two other members of the panel—Judge Barry Silverman and Judge Kim Wardlaw—are equally to blame for this embarrassing opinion.