

Recent Case Report

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People v. Troyer

(2011) 51 Cal.4th 599

Issue

Did officers reasonably believe that a warrantless entry into a residence was necessary to locate a shooting victim?

Facts

At about noon, police in Elk Grove (Sacramento County) received a 911 call that a shooting had just occurred at a residence. The caller reported that one man had “possibly been shot twice,” and that the shooters had fled. The first officer to arrive found a woman on the front porch who had been shot several times. Also on the porch was a man, Adrien Abeyta, who had a wound on the top of his head. The officer had trouble obtaining any information from the victims because the woman was in an “altered level of consciousness” and Abeyta was “excited and agitated.”

The officer then noticed blood on the front door; specifically, “smudge marks and blood droplets in multiple areas, including near the handle side of the door.” Although this indicated that one or both of the victims had touched the door, the officer couldn’t tell whether they did so as they left the house (indicating the shooting had occurred inside) or whether they did so as they tried to enter (indicating the shooting had occurred outside). In any event, he *did* know that he needed to find out if there were any other victims inside.

And so he asked Abeyta if anyone was inside. Abeyta did not respond for 15-20 seconds, so the officer repeated the question. Again, Abeyta just “stared” at the officer, but finally said he “did not think” anyone was inside. Needing a definitive answer, the officer asked once more. Another long pause, then Abeyta said “no.” Nevertheless, the officer decided to enter, mainly because of the life-or-death consequences of his decision, Abeyta’s hesitancy in answering the question, his strange responses to the officer’s questions, and his agitated mental state.

After making an announcement at the door, the officer and others entered and conducted a cursory inspection of the downstairs. Finding no one, they went upstairs. They didn’t find anyone there either, but one of the bedroom doors was locked. So, after making another announcement, an officer kicked the door open and immediately saw “quarter size balls” of marijuana and an electronic scale. Officers then secured the house, obtained a search warrant and, in the course of the search, seized firearms, \$9,000 in cash, and marijuana. As the result of the seizure, Albert Troyer, one of the residents of the house, was charged with possession of marijuana for sale.

When Troyer’s motion to suppress the evidence was denied, he pled no contest. Later, he appealed on grounds that the entry into the house, and particularly the bedroom, were unlawful because there were insufficient facts demonstrating that someone in the house had been shot. Although the Court of Appeal ruled the initial entry was lawful, it ruled

the entry into the bedroom was unlawful because the officers saw nothing downstairs (such as blood or signs of a struggle) to indicate that anyone else needed immediate aid. The People appealed to the California Supreme Court.

Discussion

Troyer argued that a warrantless entry based on the emergency aid component of exigent circumstances is lawful only if officers have *probable cause* to believe that someone on the premises needs immediate assistance. The California Supreme Court disagreed.

At the outset, it should be noted that there is some confusion over this issue. On the one hand, the United States Supreme Court has repeatedly instructed the lower courts to utilize a balancing test to determine whether exigent circumstances exist. Specifically, the courts are required to uphold a search if the need for it outweighed its intrusiveness. As the Court explained in *Illinois v. McArthur*, “[W]e balance the privacy-related and law enforcement-related concerns to determine if the intrusion was reasonable.”¹ It is therefore apparent that probable cause is *not* a requirement because, under the balancing test, a reduced level of necessity would suffice if the intrusion was relatively insignificant. Moreover, as the California Supreme Court observed in *Troyer*, it would be inappropriate to import the doctrine of probable cause (a concept pertaining to criminal investigations) into the field of exigent circumstances (a concept pertaining to the saving of lives and property). Thus, the court reiterated the rule that, in determining the existence of exigent circumstances, “we balance the nature of the intrusion on an individual’s privacy against the promotion of legitimate governmental interests.”

As a practical matter, however, probable cause—or something approaching it—will always be necessary whenever the intrusion consists of a warrantless entry or search of a home. That’s because such an intrusion is simply too weighty to be justified by anything less.² As the result, there are several cases in which the courts have ruled flat out that a warrantless entry or search of a home based on exigent circumstances requires probable cause to believe the intrusion was necessary.³

¹ (2001) 531 U.S. 326, 331. ALSO SEE *Illinois v. Lidster* (2004) 540 U.S. 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.”].

² See *Silverman v. United States* (1961) 365 U.S. 505, 511 [“At the very core” of the Fourth Amendment stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.”].

³ See, for example, *Huff v. City of Burbank* (9th Cir. 2011) 632 F.3d 539, 545 [“In addition to exigency, officers must have probable cause [to enter].”]; *Murdock v. Stout* (9th Cir. 1995) 54 F.3d 1437, 1441 [“Although exigent circumstances relieve the police officer of the obligation of obtaining a warrant, they do not relieve an officer of the need to have probable cause to enter the house.”]; *U.S. v. Alaimalo* (9th Cir. 2002) 313 F.3d 1188, 1193 [“Even when exigent circumstances exist, police officers must have probable cause to support a warrantless entry into a home.”]; *U.S. v. Socey* (D.C. Cir. 1988) 846 F.2d 1439, 1444, fn.5 [“Exigent circumstances justify a warrantless entry into a home only where there is also probable cause to enter the residence.”]; *U.S. v. Brown* (6th Cir. 2006) 449 F.3d 741, 745 [“To justify a warrantless entry based on exigent circumstances, there must also be probable cause to enter the residence.”]; *Kleinholz v. U.S.* (8th Cir. 2003) 339 F.3d 674, 676 [“probable cause must be present before either a warrant or exigency will allow a search”].

Although the court in *Troyer* rejected the argument that probable cause is an absolute requirement, it acknowledged that an entry or search of a home cannot be upheld under an exigent circumstances theory unless there was an “objectively reasonable basis” for the intrusion. So, the issue in *Troyer* was whether the officers were aware of facts that satisfied this requirement.

As for the initial entry, the court ruled it plainly passed this test. Among other things, it pointed out that the blood on the front door “indicated that a shooting had occurred mere feet from or within the doorway area. Bloodstains on the door signaled that a bleeding victim had come into contact with the door, either by entering or by exiting the residence.” In addition, the 911 caller had reported that a man had “possibly been shot twice,” but the only man on the scene was Abeyta, and he could not possibly have been the person who had been shot twice because he was suffering from a head wound that, if caused by two gunshots, would undoubtedly have been fatal.

Having ruled that the initial entry was lawful, the court addressed the Court of Appeal’s conclusion that the entry into the bedroom was unlawful because the officers saw no blood or anything else in the downstairs area to indicate the shootings (or even a disturbance) had occurred inside the house. While that was, in fact, the situation downstairs, the Supreme Court ruled it did not nullify the convincing force of the circumstances that indicated another shooting victim might be in the bedroom. Especially important were Abeyta’s “inconsistent and evasive responses to [the officer’s] inquiries as to whether anyone was inside the residence.”¹² The court also observed that when the officers searched the downstairs area they were looking for people, not blood. As one of them testified, the officers’ attention was focused on discovering “a body,” not blood. In any event, the court pointed out that bloodstains “are not prerequisites to a finding of exigency.”

For these reasons, the court ruled that the officers’ entry into the downstairs area and their forcible entry into the bedroom were lawful. POV