

U.S. v. Knights
(December 10, 2001) ___ US ___

ISSUE

Was a probation search of a bombing suspect's apartment unlawful because the purpose of the search was to investigate a crime rather than rehabilitate the suspect?

FACTS

Napa County sheriff's deputies suspected that Knights was responsible for a series of pipe-bombings, arson, and other vandalism against PG&E and Pacific Bell facilities. The deputies also learned that Knights was on state probation in a drug case, and that one of the terms of probation was that he must "submit his person, property, place of residence, vehicle, personal effects, to search at anytime, with or without a search warrant, warrant of arrest or reasonable cause by any probation officer or law enforcement officer."

In hopes of obtaining evidence in the case, deputies conducted a probation search of Knights' apartment. The search netted detonation cord, ammunition, bolt cutters, telephone pole-climbing spurs, drug paraphernalia, a brass padlock stamped "PG&E," and photographs and blueprints stolen from a building that had been burglarized and pipe-bombed.

Knights was subsequently charged in federal court with conspiracy to commit arson, possession of an unregistered destructive device, and for being a felon in possession of ammunition.

Knights contended the search of his apartment was unlawful because its purpose was to obtain evidence of vandalism rather than to make sure he was not using drugs or otherwise complying with the terms of drug probation. The U.S. Court of Appeals (9th Circuit) agreed with this contention, ruling that a probation search is unlawful if it was conducted for an "investigatory" purpose. The case was remanded to the Federal District Court for trial.

DISCUSSION

The U.S. Supreme Court reversed, ruling the search was lawful. Specifically, the Court ruled that a probation search is not unlawful merely because it was conducted solely to investigate a crime that was unrelated to the crime for which the suspect was on probation. The Court pointed out that the public has a legitimate interest in determining whether probationers are continuing to commit crimes—any kind of crimes—and that such an interest is especially strong when you consider that probationers are more likely than others to commit crimes. Said the Court:

[I]t must be remembered that the very assumption of the institution of probation is that the probationer is more likely than the ordinary citizen to violate the law. The recidivism rate of probationers is significantly higher than the general crime rate.

Having ruled that a probation search may be conducted for an investigatory purpose, the next issue for the Court was whether there should be any restrictions on an investigatory probation search. For example, must officers have reasonable

suspicion or probable cause that the suspect is guilty of the crime they are investigating? Or, can such searches be conducted based on a hunch or something less than reasonable suspicion?

Unfortunately, the Court did not answer the question. Instead, it concluded that, at the most, only reasonable suspicion would be required. And because it was apparent that the sheriff's deputies did, in fact, have reasonable suspicion to believe *Knights* was the arsonist, the search was lawful and the evidence was admissible. The case was remanded to Napa County for trial.

DA's COMMENT

Knights is a somewhat disappointing decision because we had hoped the Court would, once and for all, rule that probationers cannot challenge searches to which they had consented as a condition of probation. As noted, the Court dodged the issue.

So where does that leave things? First, because *Knights* involved an investigatory probation search, it does not change the law as to those probation searches that are conducted randomly or just to make sure the probationer is complying with the terms of probation. In other words, if the terms of probation say that the search may be conducted without cause, neither reasonable suspicion nor probable cause is required so long as the purpose of the search was to monitor the probationer's compliance with the terms of probation.¹

Second, if the probationer was suspected of committing a specific crime, and if the purpose of the search was to confirm or dispel that suspicion, an investigatory probation search is clearly lawful—under the authority of *Knights*—if officers had reasonable suspicion to believe the suspect committed the crime.

Third, if officers did not have reasonable suspicion, the lawfulness of the search is determined by applying existing California law. As things stand now, a suspicionless investigatory probation search is permitted if four requirements are met:

- (1) **Probation terms:** The terms of probation required the probationer to “be of good conduct and obey all laws” or something similar.
- (2) **Purpose of search:** The purpose of the search was to confirm or dispel the officers' suspicion that the probationer had violated the terms of probation by committing a crime; i.e., the search was “reasonably related to the purposes of probation.”²
- (3) **No harassment:** The search was not conducted for purposes of harassment or for some arbitrary reason.³
- (4) **Officers knew of search clause:** Officers were aware that the person, place, or thing they were searching was subject to warrantless probation searches.⁴

¹ See *People v. Bravo* (1987) 43 Cal.3d 600, 609, 611; *People v. Turner* (1976) 54 Cal.App.3d 500, 507 [probation searches “need not be founded on any report, or suspicion, or belief of continued misconduct.”]; *People v. Brown* (1987) 191 Cal.App.3d 761.

² See *People v. Bravo* (1987) 43 Cal.3d 600, 610; *People v. Robles* (2000) 23 Cal.4th 789, 797.

³ See *People v. Bravo* (1987) 43 Cal.3d 600, 610; *People v. Clower* (1993) 16 Cal.App.4th 1737, 1741-3; *In re Anthony S.* (1992) 4 Cal.App.4th 1000; *In re Marcellus L.* (1991) 229 Cal.App.3d 134, 142; *People v. Woods* (1999) 21 Cal.4th 668, 682; *People v. Robles* (2000) 23 Cal.4th 789, 797.

⁴ See *People v. Robles* (2000) 23 Cal.4th 789, 797.