

Don't Come Knocking with a Civil Arrest Warrant

By: Monte E. Hester; July 2004

State v. Thompson, Supreme Court of Washington, Docket No. 72997-2, June 24, 2004, is a great case regarding statutory construction and reality in assessing a detectives actions and prosecutor's assertions.

This case involved an entry into a home by Pierce County Sheriff Deputies Larson and Myron purportedly to arrest a man pursuant to the authority of a civil bench warrant issued for failure to appear at a show cause hearing re non-payment of child support. The deputies claim they knocked and announced, waited ten seconds, then entered forcibly and took custody of the defendant.

The state argued they were legal because the "knock and wait" statute, RCW 10.31.040, permits such entry. The Supreme Court points out that the statute explicitly refers to arrests in civil actions. The court said proper rules of statutory construction did not permit expansion of the statute to apply to civil warrants for arrest.

Another issue involved the suppression of evidence of a meth lab observed by Deputy Larson when he entered the house a second time. There was another person in the home other than the defendant. Deputy Larson told him to come outside. After patting him down, Deputy Larson told him to leave the area. That person told Deputy Larson that he needed his jacket from inside the home before leaving. Deputy Larson testified that he entered the house to find the jacket and to make sure no one else was in the house. The state argued that if Deputy Larson would have permitted the man to retrieve his own jacket that there was a risk that he could destroy evidence, retrieve a weapon or steal items that belonged to the defendant. The court, kindly, said this argument is not persuasive, saying the record is absent any such evidence. The ploy to create a ruse through argument and to jump on any excuse to enter without a legal warrant failed.

Watch those guys!

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