19-17 - Case Law Update: People v. Ovieda

Los Angeles County Sheriff's Department
NEWSLETTER
Field Operations Support Services

CASE LAW UPDATE: PEOPLE v. OVIEDA

A warrantless search of a home may no longer take place solely under the "community caretaking" exception. On August 12, 2019, the California Supreme Court in People v. Ovieda, ruled the "community caretaking" exception does not apply in the absence of exigency. In reaching its conclusion, the court overturned a previous ruling in the case of People v. Ray (1999).

CASE SUMMARY

On June 17, 2015, Santa Barbara police officers responded to Ovieda's home after receiving a report he was suicidal and had access to guns. When officers arrived, they learned Ovieda was inside the residence with two friends, a male and a female. The male stepped outside the residence and spoke to officers. He related that the three had been in Ovieda's room when Ovieda began talking about suicide. Ovieda then reached for a gun, but the male and female were able to disarm and restrain him. While the female remained with Ovieda, the male collected Ovieda's weapons and ammunition, and stored them in the garage away from Ovieda.

The female and Ovieda subsequently exited the residence where officers searched and handcuffed him. During the search, Ovieda denied being suicidal or that he had any weapons. The male told officers no one else was in the residence and did not indicate domestic violence was involved.

Officers testified they made entry into the residence to conduct a "protective sweep" because the situation was "emotional and dynamic" and they were unclear what caused the situation. Upon entry, the officers detected a strong odor of marijuana and observed ammunition and items related to marijuana cultivation. Ovieda was subsequently charged with manufacturing a controlled substance, importing an assault weapon, and possessing a silencer and short barreled rifle. When Ovieda filed a motion to suppress all evidence, the prosecution cited the "community caretaking" exception to justify the warrantless entry.

After reviewing the case, the California Supreme Court concluded officers violated Ovieda's civil rights by conducting the search without a warrant. The court ruled there were no **"exigent circumstances"** to allow officers to enter without a warrant because all parties were outside, Ovieda was handcuffed and secured, and the weapons were not accessible and not a threat to the officers or public.

In addition, there were no other extenuating circumstances to lead officers to believe other people were in the residence or that entry was immediately necessary.

BOTTOM LINE

The Constitution's Fourth Amendment prohibits "unreasonable searches and seizures" of a location without peace officers obtaining a warrant under declaration of probable cause of evidence at the location. The following are exceptions to obtaining a warrant:

- **Consent**;
- **Probation or Parole authority**; or
- **Exigent Circumstances** which allows law enforcement, under certain circumstances, to enter a structure or residence without a search warrant in a situation where swift action is needed to prevent imminent danger to life or welfare (including yours), serious damage to property, imminent escape of a suspect, or destruction of evidence.

Community Caretaking is limited in scope. It is intended for aiding those in need, such as medical emergencies, victims of disasters, incapacitated drivers, and welfare checks for concerned neighbors/relatives. Community caretaking also allows removal of a vehicle when necessary to ensure safe flow of traffic or to protect property from theft or vandalism.

When relying on community caretaking to search a home without a warrant, it is important to be able to clearly **articulate** your basis for entry and search under that doctrine.

Similarities exist between "community caretaking" and "protective sweeps," and both share the exigency requirement. For more information on protective sweeps see Field Operations Support Services (FOSS) Newsletter 13-07, Protective Sweeps and Vicinity Sweeps.

If you have any questions, please call or email Field Operations Support Services at [REDACTED TEXT]

References

People v. Ovieda (2019) Cal.5th [2019 WL 3771911]

Cady v. Dombrowski 413 U.S. 433 (1973)

California Vehicle Code 22650 Authority to Remove Vehicles

Field Operations Support Services (FOSS) Newsletter 13-07, Protective Sweeps and Vicinity Sweeps

Field Operations Support Services (FOSS) Newsletter 06-13, Warrantless Entries: Brigham City, Utah v. Stuart