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Supreme Court Issues Ruling on State Constitutional Protections of Privacy Rights

SANTA FE – The state Supreme Court ruled today police did not violate a Farmington man's constitutional right to privacy by entering an unlocked apartment without a warrant to check on the well-being of children and adults who were inside.

The Court's unanimous decision provides new legal guidance on when police are justified under the New Mexico Constitution to enter a private residence without a warrant.

In an opinion written by Justice Barbara J. Vigil, the Court said its departure from federal legal precedent "offers greater protection for individual privacy rights and serves to regulate warrantless police conduct."

The Fourth Amendment to the U.S. Constitution and Article II, Section 10 of the state constitution protect against unreasonable searches and seizures. A warrant is generally required for a police search except in a few limited circumstances.

At issue in the case was whether the officer's entry into the apartment was reasonable under an exception to the warrant requirement known as the "emergency assistance doctrine." It allows police to enter a home without a warrant to aid injured occupants or protect them from harm.

In the Farmington case, Officer William Temples was dispatched to Nathaniel Yazzie's residence in December 2013 after a neighbor heard a loud "thumping" noise coming from Yazzie's apartment. There was no answer after the officer repeatedly knocked at the door and announced himself over the span of several minutes. The officer testified that he heard an infant crying inside and a child "hollering, 'Mommy! Mommy, wake up!' " The officer also said the doorknob rattled as if someone had tried but was unable to open the door from the inside.

Upon entering the apartment, the officer found Yazzie and a woman passed out intoxicated on the floor. An infant and two other young children were in the room. The officer saw empty alcohol bottles when he checked adjoining rooms to determine if other people needed assistance.

Yazzie pleaded no contest to a felony charge of attempt to commit negligent child abuse after a district court judge allowed prosecutors to use evidence seized by police after entering the apartment. He entered a conditional plea, reserving the right to appeal the denial of the motion to suppress evidence.

The Supreme Court upheld the judge's decision, reversing a Court of Appeals ruling that the police officer's warrantless entry was not justified and that evidence obtained during the resulting search should be suppressed.

The Supreme Court concluded that the officer's entry into the apartment and search was reasonable under the federal constitution as well as Article II, Section 10 of the New Mexico Constitution, which previous court rulings have found to offer greater protection to an individual's right of privacy than the Fourth Amendment.

In deciding the case, the state's highest court adopted a "more stringent standard" than required by federal court precedent for assessing the reasonableness of a warrantless entry by police to render emergency assistance.

For police to enter a home without a warrant under the New Mexico Constitution, the Court said, the entry and resulting search must not be "primarily motivated by an intent to arrest or to seize evidence." That is in addition to requirements established by U.S. Supreme Court decisions: that police have "reasonable grounds" to believe an emergency requires their immediate assistance and there was a "reasonable basis … to associate the emergency with the area or place to be searched."

"Inquiry into an officer's primary motivation for entry affords individuals broader protection against baseless, warrantless intrusions into their homes," the Court said.

Examining the "subjective motivation" of police is important for state constitutional protections, the Court said, because it "provides a judicial sieve through which courts may scrutinize warrantless police action and properly exclude evidence obtained under the guise of emergency response."

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To read the decision in *State v. Yazzie*, No. S-1-SC-36508 slip op., please visit the New Mexico Compilation Commission's website using the following link:

http://www.nmcompcomm.us/nmcases/nmsc/slips/SC36,508.pdf