

A police department received reliable information that a woman was selling drugs from her apartment. Upon arriving at the apartment, officers noticed the smell of burning marijuana (which is an illegal substance in the jurisdiction) coming from inside the closed front door. They knocked on the door and announced, "Police!" Immediately, they began to hear sounds of items being moved inside. Concerned that evidence was being destroyed, the officers opened the unlocked door and entered the apartment, where they saw drugs and cash on the dining room table. They arrested the woman for drug offenses.

The woman has moved to suppress the evidence obtained from her apartment, arguing that the police violated the Fourth Amendment when they entered the apartment without a warrant.

Should the court grant the woman's motion to suppress?

- A. No, because the police had probable cause and exigent circumstances.
- B. No, because the police had reasonable suspicion and exigent circumstances.
- C. Yes, because the police could have obtained a warrant.
- D. Yes, because the police created any exigent circumstances.

Correct

Collecting Statistics

55 secsTime Spent

2023Version

Explanation:

Exigent situations/circumstances

(exception to warrant requirement)

Evanescent evidence Imminent threat that evidence of crime will be lost or destroyed

Emergency situation Immediate threat of physical harm to police and/or public

Hot pursuit Immediate pursuit of fleeing felony suspect

A court should suppress evidence obtained during an unreasonable Fourth Amendment search. A search is generally unreasonable when conducted without a warrant. However, a **warrantless search** is reasonable when **exigent circumstances** create a need for immediate police action. Exigent circumstances exist when police have **probable cause to believe** that a warrantless entry and/or search is **needed to**:

prevent imminent destruction of relevant evidence (ie, evanescent evidence)
protect police and/or the public from immediate physical harm (ie, emergency situation) *or*
pursue a fleeing suspect after a felony occurs (ie, hot pursuit).

During a search justified by exigent circumstances, police can seize illegal items that are in plain view without a warrant.

Here, the police officers had reliable information that the woman was selling drugs from her apartment. When they arrived at the woman's apartment, they could smell burnt marijuana coming from inside. After the officers knocked and announced their presence, they heard items being moved inside. This created probable cause to believe that the woman was destroying relevant evidence, so exigent circumstances justified the officers' warrantless entry. Therefore, the court should deny the woman's motion to suppress the evidence obtained from her apartment.

(Choice B) Police must have probable cause to believe—not mere **reasonable suspicion**—that exigent circumstances exist to conduct a warrantless search.

(Choice C) The fact that the officers may have been able to obtain a warrant is irrelevant because exigent circumstances justified their warrantless entry.

(Choice D) Exigent circumstances do not exist when police create the exigency by engaging or threatening to engage in *unlawful* conduct. Although the officers created the exigent circumstances here by knocking and announcing their presence, their conduct was *lawful* since every person has the right to approach and knock on a door.

Educational objective:

An exigent circumstance permits police to conduct a warrantless entry and/or search when they have probable cause to believe that it is needed to (1) prevent imminent destruction of relevant evidence, (2) protect police and/or the public from immediate physical harm, or (3) pursue a fleeing suspect after a felony occurs.

References

U.S. Const. amend. IV (prohibiting unreasonable searches and seizures).

Kentucky v. King, 563 U.S. 452, 460–62 (2011) (explaining the exigent-circumstances exceptions to the warrant requirement).

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