

Police responded to a call that shots had been heard coming from a certain house. Upon arriving at the house, the police looked through a window and saw a man lying on the living room floor. The police opened the front door, which was not locked, and found that the man had recently been shot in the back and was unconscious. An ambulance was called. While waiting for the ambulance, one officer walked through the house to see if anyone else was present. No one else was found, but the officer did see on the kitchen table clear bags of what he believed to be cocaine. The officer seized the bags, and laboratory tests later confirmed that the contents were cocaine.

After the ambulance arrived a few minutes later and took the man to the hospital, the police went through the house and opened drawers trying to find the gun used in the shooting. No gun was found, but upon opening a drawer in an upstairs bedroom, the police found marijuana and seized it.

Later investigation led to charging a young woman, who lived in the house, with unlawful possession of the cocaine and the marijuana. The young woman has filed a motion to suppress the use of both as evidence on the ground that the entry into the house and the searches were made without a warrant.

How should the court decide the young woman's motion?

- A. Deny it as to both the cocaine and the marijuana.
- B. Deny it as to the cocaine, but grant it as to the marijuana.
- C. Grant it as to both the cocaine and the marijuana.
- D. Grant it as to the cocaine, but deny it as to the marijuana.

## Explanation:

A court should suppress evidence obtained during an unreasonable Fourth Amendment search—ie, a search conducted without a warrant or an **exception** to the warrant requirement. An **exigent circumstance** is an exception that justifies warrantless police conduct when they have **probable cause to believe** (ie, reasonably believe) that one of the following exists:

Evanescence evidence – there is an imminent threat that relevant evidence will be destroyed.

**Emergency situation** – there is an immediate threat of harm to police and/or the public.

Hot pursuit – a suspect is fleeing after a felony occurred.

During an emergency situation, police can make a warrantless **protective sweep of the premises** to search for injured individuals and any continued threats. They can also seize illegal items that are in their **plain view** without a warrant. But **once the emergency ends**, police **cannot continue to search** the premises without a warrant or another exception. If they do so, any evidence found during that search will be suppressed at trial.

Here, police went to a house in response to a call that shots had been fired. They saw a man lying on the floor, which created a reasonable belief that there was an immediate threat of harm to police or others. This emergency situation justified the officer's warrantless entry and protective sweep of the house to search for others. And since he saw cocaine sitting in plain view on the kitchen table, he lawfully seized it without a warrant. Therefore, the young woman's motion to suppress the cocaine should be denied.

However, the emergency ended once the man was taken to the hospital. Nevertheless, the police decided to search the house again to look for the gun used in the shooting. And since they did not have a search warrant and no other exception applied, this search was unreasonable. Therefore, the marijuana discovered during that search should be suppressed (**Choices A, C, & D**).

## Educational objective:

When police have probable cause to believe that an emergency situation exists, they can (1) conduct a warrantless search of the premises for any injured persons and continued threats and (2) seize illegal items in plain view. But once the emergency ends, the search must stop.

## References

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

Mincey v. Arizona, 437 U.S. 385, 392–93 (1978) (explaining when the emergency situation exception to the warrant requirement applies).

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