

SUPREME COURT OF KENTUCKY

Milam v. Commonwealth

483 S.W.3d 347 (Ky. 2015) · Decided May 14, 2015

SUMMARY

The Kentucky Supreme Court held that a fraternity house is a private residence for purposes of Fourth Amendment protections. It concluded that police officers exceeded the permissible scope of a knock-and-talk investigation by entering the fraternity house without a warrant or consent, and that any alleged third-party consent was tainted by the unlawful entry. The court reversed the Court of Appeals, vacated the defendant's guilty plea, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Cunningham; Cunningham
JURISDICTION	Kentucky
DECIDED	May 14, 2015
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	After the trial court denied Milam's motion to suppress evidence obtained during a warrantless entry into a fraternity house, Milam entered a conditional guilty plea preserving his right to appeal the suppression ruling. The Kentucky Court of Appeals affirmed, and the Supreme Court of Kentucky granted review and reversed.
STANDARD OF REVIEW	The trial court's factual findings are conclusive if supported by substantial evidence, while its legal conclusions are reviewed de novo.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential.
PARTIES	David Zax Milam v. Commonwealth of Kentucky

TOPICS

[fourth amendment](#)[search and seizure](#)[warrant requirement](#)[suppression of evidence](#)[criminal procedure](#)

PRACTICE AREAS

[criminal procedure](#)[constitutional law](#)[evidence](#)

QUESTIONS PRESENTED

1. Whether a fraternity house is a private residence for purposes of Fourth Amendment protection.
2. Whether police officers exceeded the permissible scope of a warrantless knock-and-talk investigation by entering the fraternity house after receiving no response.
3. Whether alleged third-party consent could validate or purge the detectives' unlawful entry.
4. Whether evidence discovered as a result of the unlawful entry had to be suppressed.

HOLDINGS

1. A fraternity house is a private residence for purposes of Fourth Amendment protections.
2. The detectives exceeded the scope of the knock-and-talk procedure by entering the fraternity house after no one responded to their knocking and ringing.
3. The alleged third-party consent did not validate the detectives' unlawful entry or the ensuing search.
4. Evidence discovered as a result of the detectives' unlawful entry had to be suppressed.

KEY QUOTATIONS

“Therefore, we hold that a fraternity house is a private residence for purposes of Fourth Amendment protections.” (at 350)

“The crux of the validity of the knock and talk procedure is that it is a consensual encounter in a place where the officer, like the public, has a right to be.” (at 351)

“Accordingly, the detectives exceeded the scope of the knock and talk procedure.” (at 352)

FACTUAL BACKGROUND

University of Kentucky police detectives went to a fraternity house without a warrant to investigate a tip that Milam was selling marijuana. After receiving no response to their knock and doorbell, the detectives opened an unlocked, slightly ajar back door and entered the foyer, then followed a fraternity member upstairs to Milam's room. The detectives smelled marijuana, saw marijuana in plain view when Milam opened his door, and obtained Milam's purported consent to search; the search uncovered marijuana, cash, Adderall, paraphernalia, and a fake driver's license.

PROCEDURAL HISTORY

Milam was charged with drug-trafficking, drug-possession, drug-paraphernalia, and forged-instrument offenses. Following several suppression hearings, the trial court denied his motion to suppress. Milam pleaded guilty conditionally to the trafficking charge, received a one-year sentence probated for three years, and the remaining charges were dismissed. The Court of Appeals affirmed; the Supreme Court of Kentucky reversed, vacated the guilty plea, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals' decision was reversed, Milam's guilty plea was vacated, and the case was remanded to the trial court for further proceedings consistent with the opinion.

CASES CITED

- Commonwealth v. Marr, 250 S.W.3d 624, 626 (Ky. 2008)
- Payton v. New York, 445 U.S. 573, 586 (1980)
- Reardon v. Wroan, 811 F.2d 1025, 1030 (7th Cir. 1987)
- State v. Miller, No. WD-10-027, 2011 WL 1167181, at *3 (Ohio App. Mar. 31, 2011)
- State v. Pi Kappa Alpha Fraternity, 23 Ohio St. 3d 141, 491 N.E.2d 1129 (1986)
- City of Fargo v. Lee, 580 N.W.2d 580, 581 (N.D. 1998)
- Idol v. State, 233 Ind. 307, 119 N.E.2d 428 (1954)
- Quintana v. Commonwealth, 276 S.W.3d 753, 755, 759 (Ky. 2008)
- United States v. Gomez-Moreno, 479 F.3d 350, 356 (5th Cir. 2007)
- United States v. Dillard, 438 F.3d 675, 682 (6th Cir. 2006)
- Wong Sun v. United States, 371 U.S. 471 (1963)
- Davis v. Commonwealth, 398 S.W.2d 701 (Ky. 1966)
- Stevens v. Commonwealth, 354 S.W.3d 586 (Ky. App. 2011)
- Amos v. United States, 255 U.S. 313 (1921)
- Elmore v. Commonwealth, 282 Ky. 443, 138 S.W.2d 956 (1940)
- Sanders v. Commonwealth, 609 S.W.2d 690 (Ky. 1980)