

## **Abstract**

Exceptions to search warrant requirements, introduction, Kentucky, king, dispute, alleged case, October 13, 2005, cocaine deal, the Lexington-Fayette County police, Centre Parkway in Lexington, suspect could know from a radio message, evidence was possibly being destroyed, Appellant Hollis King, Clarence Johnson and Jamela Washington, crack cocaine, cocaine residue, \$2500 in cash and other drug paraphernalia, unlawful, constitutional right, circuit court, Opinion and Order, Primarily, smell of marijuana, exigent circumstances, Police, warrantless entry, imminent, Destruction of evidence, Kentucky, defend these arguments, deliberately created the exigent circumstances, warrant requirement, exigency, foreseeable, investigative tactics, employed by the police, apartment, proper exigent circumstances, King's judgment of conviction, suppress evidence, Injuries to Property, Consent, reasonable situation, voluntarily consents, search, Plain View, Search Incident, Arrest, defendant and his area, suspect ,legally arrested, Exigent Circumstances, residence of the defendant, dangerous accomplice, search of weapons, car search, 4th and 5th Amendment rights, unreasonable police searches, self-incrimination, precautionary measures, citizen in good faith.

## **Introduction**

The purposes in conducting this research and writing this paper are to improve the ability to synthesize, analyze, and evaluate information using the U.S. Constitution, statutes, and U.S. Supreme Court cases; use this information to propose a solution to a constitutional issue; discuss social policy implications of the solution; and present the ideas in clear written form.

## **The Case: Kentucky v. King**

'Exceptions of search warrant requirements' is a particular essay based on the constitutional dispute between Kentucky and King. Basically it was an issue between the said parties on the alleged case took place on October 13, 2005. Based on confidential information on a cocaine deal, the Lexington-Fayette County police were conducting a "buy bust" operation at an apartment complex on Centre Parkway in Lexington. The undercover officer was arranged to give the police to make arrest once the deal was completed. But just before the police could enter the site, the suspect could know from a radio message about the movement and entered into a nearby apartment. On reaching the premises the officers could notice movements inside the said apartment. The officer Cobb testified that the officers thought that a crime was occurring there and the evidence was possibly being destroyed. So the officers kicked the back left the door open, and searched for the original suspect. Unfortunately they couldn't find any suspect other than Appellant Hollis King, Clarence Johnson and Jamela Washington. Even though the police could not find any suspected drug dealer, they could find crack cocaine, cocaine residue, \$2500 in cash and other drug paraphernalia. (On the docket-US Supreme Court News (2010 September 8)

King and friends argued that the entry of the police was unlawful since it violates the constitutional right of the citizen and he filed motions to suppress all evidence obtained as a result of that entry. After a detailed hearing, the circuit court issued an Opinion and Order. Primarily, the court found that King objected the search, secondly, the smell of marijuana gave the officers probable cause to continue with their investigation. Most importantly, the sound of movement inside the apartment created the emergency exigent circumstances. As result of these findings, the circuit court denied King's motion. Further to that the King entered a conditional guilty plea to the court of appeal,

reserving the right to appeal the circuit court's denial of his motion to suppress. (Kish & Lietz. P.C (2010 October 10)

The court of appeal found the following aspects against the circuit court decision:

1. Police did not have proper exigent circumstances to justify a warrantless entry.
2. The police were not behind the fleeing suspect
3. The warrantless entry was not justified by the imminent
4. Destruction of evidence
5. The odour of marijuana did not create exigent circumstances

Therefore, for Kentucky, the police could not defend these arguments where the officers deliberately created the exigent circumstances with the bad faith intent to avoid the warrant requirement. Besides this the police cannot rely on the resulting exigency. And further the court has found out that it was reasonably foreseeable well in advance that the investigative tactics employed by the police would not make to justify a warrantless entry.

While there are a lot of time and circumstances for the police to get a warrant to get into the apartment, police did not have proper exigent circumstances for them to justify their warrantless entry. As a result, King's judgment of conviction is vacated and the denial of King's motion to suppress evidence is reversed. Brody, David C.; Acker, James R.; Logan, Wayne A. (2000)

## **Injuries to Property**

An injury to property may be to different rights in it, the right of possession, of ownership or of enjoyment. The usual type of injury to possession is called a trespass. The mere entry of a person into another's land or house without the latter's permission is a trespass. The latter can get damages for it, though the amount may be small, if the trespasser not merely enters the land or house, but turns out the person in possession, the latter may sue the trespasser to recover his property as well as the value of the profits lost by him. Beale, Hugh; Tallon, Denis (2002).

### **Exigent circumstances where the Police do not need a warrant if you have the following probable causes**

1. Consent – It is a reasonable situation where no warrant is needed if an individual voluntarily consents a search.
2. Plain View -A police officer does not need a search warrant to seize the object when he spots something in plain view.
3. Search Incident – If a suspect has been legally arrested, the police can search the defendant and his area as per the existing law of the states.
4. Exigent Circumstances – Here in this circumstance, the police officer may search the residence of the defendant after his arrest if they believe that a dangerous accomplice may be hiding there.
5. The police are also entertained to get in to the car for the search of weapons, during a car search. (Kish & Lietz. P.C (2010 October 10)

**Research on the provision(s) of the United States Constitution that are at the heart of the issue (4th and 5th Amendment rights)**

## 4th and 5th Amendment rights

These provision(s) of the United States Constitution are at the heart of the issue.

4th and 5th Amendment rights of the US Constitution envisages the right of the privacy from unreasonable police searches and 5th Amendment's privilege against self-incrimination, which provides protection for the privacy of personal information. From these two amendment rights, it is obvious that the police cannot infiltrate without proper grounds and precautionary measures taken well in advance other than the circumstances cited in the constitution. In fact, both these amendment rights envisage the privacy of the citizen in good faith. Here these provision(s) of the United States Constitution are at the heart of the issue in *Kentucky v. King*. Every owner of land has a natural right to make use of it and the advantages arising naturally from its situation. Every owner of the house abutting a natural way has a right to make use of his privacy for his peaceful life.

Similar case(s) before the U.S. Supreme Court that involve the very same issue.

1. *United States v. Chambers*,
2. *Stewart v. Commonwealth*,
3. *Washington v. Commonwealth*,
4. *Kirk v. Louisiana*,
5. *United States v. Santana*,
6. *State u. Nichols*

Here in all these cases, the US Constitution envisages the right of the privacy from unreasonable police searches and privilege against self-incrimination, which provides protection for the privacy of personal information. (Kish & Lietz. P.C (2010 October 10)

### **Solution of this constitutional issue and the social policy implications**

The right of the citizens should come first beyond all odds as the constitution envisages the same to them. But the same time, it should be adhered that this provision should not affect the safety and security of the society. So there should be a reasonable intelligence which should not affect both of them is a wise and upright solution to this problem. So there should be adequate constitutional amendment that should envisage proper privacy, safety and security of every citizen in our society. Bayles, Michael D. (1992)

### **Conclusion**

It is open to the court to recognise new rights and duties, if it is satisfied that public interests require it to do so. The decisions of American courts in such cases are welcomed so far since it accepted the privacy very much and it does show the forward trend of social opinion in widening the range of the individual's rights.

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