

INFORMANT

The Law Enforcement and Public Entity newsletter of Phelps Dunbar

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SUPREME COURT OKAYS WARRANT-LESS ENTRY TO PREVENT VIOLENCE

The United States Supreme Court has ruled that police officers may go into a home uninvited and without a search warrant to prevent violence. *Brigham City, Utah v. Stuart*. The unanimous decision overturned rulings by the Utah state courts, which held that a loud party and a drunken fight did not give police reason enough to burst into a home without a warrant.

The case began in the early morning hours of July 23, 2000, when police in Brigham City, Utah, responded to a complaint about a loud party. The four officers heard shouting from inside the house, including calls to "Stop! Stop!" When they walked down the driveway, they saw two juveniles drinking beer in the backyard. They also saw through a kitchen window a young man swing his fist and strike an adult in the face, drawing blood. The officers, shouting "police," entered the kitchen, broke up the fight and arrested several of the adults for contributing to the delinquency of a minor and related charges. The lower courts granted the arrestees' motion to suppress evidence, holding

that the injury caused by the teenager punching the adult was insufficient to trigger the "emergency aid doctrine" which justifies a warrant-less entry.

In reversing the lower courts, the Justices held that police may enter a home without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury.

Writing for the Court, Chief Justice John Roberts said a fight in progress is the kind of emergency that justifies quick action by the police. Justice Roberts stated "[t]he role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties; an officer is not a like a boxing (or hockey) referee, poised to stop a bout only if it becomes too one-sided." While the lower courts had held that the officers in the case appeared more interested in breaking up the loud party than in aiding a seriously injured person, Roberts said the officers' motives did not matter. What counts, he said, are the objective facts.

JUSTICES LIMIT THE SCOPE OF CONSENT SEARCHES

The ruling described above in *Brigham City, Utah v. Stuart* is significantly more law enforcement friendly than the Supreme Court's 5-3 opinion two months ago in *Georgia v. Randolph*. In that case, the Court ruled that it is unconstitutional for police to search a home without a

warrant, if two occupants are present at the time and one consents but the other objects. The search may not go forward in the face of that objection, but the occupant must be present to have the objection count.

A MESSAGE TO ALL INFORMANT SUBSCRIBERS

Phelps Dunbar will hold its 29th Annual Employment Law Seminar on August 17-18, 2006 at the Pearl River Resort in Philadelphia, Mississippi. In light of the interest shown by our government and law enforcement clients and *Informant* subscribers, we will again feature a workshop on Law Enforcement Developments and Litigation Strategies. We will also offer a Public Employer's workshop to address special employment law issues faced by every Sheriff, Police Chief, Court Clerk, City Clerk and County Administrator. In addition, we will cover employment law issues affecting all employers, such as overtime issues under the Fair Labor Standards Act, the Family and Medical Leave Act, and employee benefits updates. Please be on the lookout for your invitation and be sure to register early. We look forward to seeing you there!

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