

# INFORMANT

The Law Enforcement and Public Entity newsletter of Phelps Dunbar

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## SUPREME COURT SIDES WITH POLICE: EVIDENCE SHOULD NOT BE EXCLUDED BECAUSE OF VIOLATION OF “KNOCK AND ANNOUNCE WARRANT”

In a 5-4 decision applauded by law enforcement, the United States Supreme Court ruled that criminal evidence should not be suppressed just because police officers armed with a search warrant do not give enough warning before entering a residence. *Hudson v. Michigan*.

The case involved the 1998 arrest of Booker Hudson by Detroit Police. Police had obtained a warrant to search Hudson's home for drugs and guns. The officers later admitted waiting less than five seconds after announcing “Police! Search warrant” before entering Hudson's home. This almost immediate entry violated an earlier Supreme Court ruling requiring officers to give homeowners fair warning. Upon entering, the officers found Hudson with a large quantity of crack cocaine and a loaded revolver.

The issue before the Supreme Court was whether the officers' violation of the “knock and announce rule” required that the drug and gun evidence seized at

Hudson's home be suppressed. Writing for the Court, Justice Scalia said it would be rash to reject evidence simply because of a technical violation of the so-called knock-and-announce rule and that criminals should not be handed a “get out of jail free card” in cases where the police have a valid search warrant.

In the past, the court has insisted that evidence must be thrown out if the police violated the Constitution's ban on unreasonable searches and seizures. Scalia stated this was not an instance where police obtained evidence by breaking the law. They had a valid warrant to search for and seize the drugs and that suppressing evidence should be “our last resort, not our first impulse.”

The four dissenting Justices said the requirement to “knock and announce” would be meaningless with no penalty for violating it.

### 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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