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Recent Developments: Wilson v. Arkansas: The Common Law "Knock and Announce" Principle Forms a Part of the Fourth Amendment Reasonableness Requirement

Lori P. Tyrrell

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Wilson v. Arkansas:

**THE COMMON
LAW “KNOCK AND
ANNOUNCE”
PRINCIPLE FORMS
A PART OF
THE FOURTH
AMENDMENT
REASONABLENESS
REQUIREMENT.**

In *Wilson v. Arkansas*, 115 S. Ct. 1914 (1995), the United States Supreme Court held that the common law “knock and announce” principle forms a part of the Fourth Amendment reasonableness inquiry. In so holding, the United States Supreme Court continues to allow each individual state to determine the overall reasonableness of Fourth Amendment searches and seizures.

Petitioner, Sharlene Wilson (“Ms. Wilson”), made a series of narcotics sales to an Arkansas State Police informant during November and December 1992. The police obtained a warrant to search Ms. Wilson’s apartment, which she shared with Bryson Jacobs (“Mr. Jacobs”). When the police arrived at Ms. Wilson’s apartment, they found the front door open. Upon opening an unlocked screen door to enter the residence, the police identified themselves and stated that they had a warrant. Once inside the home, the officers seized various drugs, paraphernalia, as well as a gun and ammunition. They also found Ms. Wilson flushing marijuana down the toilet. Ms. Wilson and Mr. Jacobs were arrested and charged with delivery and possession of various drugs.

Before trial, Ms. Wilson filed a motion to suppress the evidence seized during the search, on the basis that the police violated her Fourth Amendment rights by failing to “knock and announce” their

presence before entering her home. The trial court denied the suppression motion. At trial, Ms. Wilson was found guilty of all charges and sentenced to thirty-two years in prison. The Arkansas Supreme Court affirmed her conviction. Specifically, the court stated it could not find any authority asserting that the “knock and announce” principle is required by the Fourth Amendment. The United States Supreme Court granted certiorari to resolve the conflict between the lower courts as to whether the common law principle of “knock and announce” should be a component of the Fourth Amendment reasonableness inquiry.

In order to determine what the various components of the reasonableness inquiry are, the Court first analyzed the status of the common law at the time of the framing of the United States Constitution. *Wilson*, 115 S. Ct. at 1916. Generally, common law protected a man’s home as his castle; however, it was held that, “when the King is [a] party, the sheriff (if the doors be not open) may break the party’s house, either to arrest him, or to do other execution of the K[ing]’s process, if otherwise he cannot enter.” *Id.* (quoting *Semayne’s Case*, 77 Eng. Rep. 194, 195 (K.B. 1603)). However, the Court noted an important qualification to this general rule, which stated that individuals entering the home should first announce who they are and ask the occupant to open the door before the

forced entrance. *Wilson*, 115 S. Ct. at 1917. This qualification is referred to as the “knock and announce” principle.

The common law “knock and announce” principle was quickly integrated into early American law. Most states which ratified the Fourth Amendment enacted constitutional or statutory provisions which incorporated English common law. *Id.* Similarly, early American courts, including the Supreme Court, recognized the “knock and announce” principle. *Id.* However the Court emphasized, “we have never squarely held that this principle is an element of the reasonableness inquiry under the Fourth Amendment.” *Id.* at 1918.

After an historical analysis of the “knock and announce” principle, the Court held that the Framers of the Fourth Amendment certainly thought that an officer’s entry into a dwelling was among the factors to be considered in determining the reasonableness of the particular search and seizure. *Id.* However, in light of the Fourth Amendment’s flexible reasonableness requirement, the Court refused to institute a rigid “knock and announce”

rule. *Id.* Instead, the Court held that a trial court should analyze the circumstances of each individual case, in light of the competing law enforcement interests. *Id.*

The Court noted that even at common law the presumption in favor of announcement would yield in certain circumstances. For instance, the presumption would yield under the threat of physical violence. *Id.* at 1918-19. Also, the threat of violence to police officers may be a valid law enforcement interest which would allow unannounced entry. *Id.* at 1919. Lastly, there are two other circumstances which lower courts have held to be valid reasons for unannounced entry. First, courts have held that an officer may dispense with “knock and announce” where, “a prisoner escapes . . . and retreats to his dwelling.” *Id.* Secondly, an unannounced entry may be justified where the police, “have reason to believe that evidence would likely be destroyed if advance notice were given.” *Id.* The likelihood of evidence destruction in this case was one of the two reasons argued by the State of Arkansas for the unannounced entry into Ms. Wilson’s home. *Id.* Arkansas also

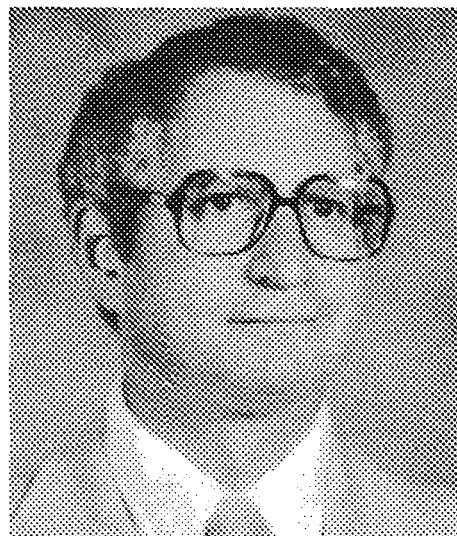
argued that the police officers “reasonably believed that a prior announcement would have placed them in peril,” given Ms. Wilson’s past criminal record. *Id.* at 1919. The Court remanded the case to the state court to make the findings of fact, and determine overall reasonableness, in light of the new rule regarding “knock and announce.”

In *Wilson v. Arkansas*, the United States Supreme Court held that the common law “knock and announce” principle should be included in determining the reasonableness of Fourth Amendment searches and seizures. While in its decision the Court gave guidance to the states, it also gave the states great discretion to interpret the United States Constitution. This is because the Court’s holding was limited to stating that the “knock and announce” principle should be included in the Fourth Amendment reasonableness inquiry. The Court emphasized that the states are to determine what is and is not reasonable overall. Private citizens and police officers alike must now look to the Court of Appeals of Maryland to determine what is a reasonable Fourth Amendment search and seizure.

-Lori P. Tyrrell

FORUM FACES

Around our Courts



Name: *Alan M. Wilner*
Position: *Chief Judge, Court of Special Appeals of Maryland since 1990 (Judge, 1977-90)*
Years:
Education: *The Johns Hopkins University, A.B., 1958, M.L.A. 1966, University of Maryland Law School, J.D. 1962*

New to the University of Baltimore Law School



Name: *Mark A.A. Warner*
Position: *Assistant Professor, Assistant Director of the Center for International and Comparative Law*
Years: *beginning Fall 1995*
Education: *McGill University, B.A., University of Toronto, M.A., 1988, Osgoode Hall Law School, LL.B., Georgetown University, LL.M., 1993.*