April 2010

THE ROOKIE

In this Issue

POLICE INSTRUCTOR

THE ROOKIE

Tennessee Officer Acquitted of Reckless Homicide

February 12, 2010 By: Officer Richard Neil for LawOfficer.com

A Tennessee Detective Sergeant was found not guilty today of Reckless Homicide. The jury deliberated for less than an hour on Thursday evening before reaching their decision that was announced in court today. Former sergeant Ronald Killings was acquitted of reckless homicide in the death of an 11-year-old pedestrian, Lakeisha White, he struck with an unmarked patrol car in July 2008.

The incident took place in Rutherford County, Tennessee. It was such a firestorm in the local community that the judge arranged for a sequestered jury of nine women and three men from Chattanooga, Tennessee.

Sergeant Killings was responding to back up one of his officers who was out with multiple subjects who were suspected in a home invasion offense. It was late in the evening and dark outside. While in route the officer asked for Killings to "step it up", and we all know what that means in the law enforcement community. Killings was only a short was off and did not activate his lights and sirens on his unmarked car. He said he feared spooking the group that his officer was out with putting him into more danger.

As Killings sped through a neighborhood the 11 year old victim darted out in front of him and was struck by his car. She was pronounced dead a few hours later at the hospital. In an initial statement Killings indicated he was not watching his speed but he thought he was going around 45mph in the 30mph zone. The department downloaded the black box from his unmarked cruiser which indicated he was most likely doing 62mph when he struck Lakeisha White. Lakeisha was outside with her aunt and three other relatives when she was struck.

A factor brought up during the trial was a personal call Sergeant Killings was on at the time of the collision. He was talking to another officer, who was off duty, regarding personal matters. He testified that he was using the "hands free" setting on his cell phone, and had both hands on the wheel at the time of collision. He cried, but remained composed, as he described hitting Lakeisha White. "My airbag exploded. I saw a little girl's face looking at me." The 11 year old had been hurled onto his windshield and thrown 30 feet from the point of impact.

As I watched the trial over that past three days I was sure that Killings would be convicted. He didn't

"Americanism means the virtues of courage, honor, justice, truth, sincerity, and hardihood—the virtues that made America. The things that will destroy America are prosperity-at-any-price, peace-at-any-price, safety-first instead of duty-first, the love of soft living and the get-rich-quick theory of life."

~Teddy Roosevelt

use his lights and sirens which means he didn't meet the definition of an "emergency vehicle" in Tennessee. The same holds true for officers in my state of Ohio as well. He was speeding 30mph over the speed limit, through a neighborhood, all while talking on his personal cell phone. It didn't look good. Then Killing's attorneys called their first defense witness on Thursday and the outlook quickly changed.

Carolyn Smotherman was the only person to see the impact. This makes her a crucial witness for law enforcement officers investigating the collision. She was interviewed by investigators and her information was in the case file. However, she was never called by the prosecutor for Grand Jury or as a witness in the trial. This shocked me and I began to wonder if this case had a political purpose due to the community uproar. Smotherman described seeing Lakeisha in a "sprinters stance" as if she was going to race across the street in front of the car. Smotherman saw Killings unmarked car strike Lakeisha and said "it sounded as though her whole body broke". The prosecutor actually attacked her for having a "learning disability". The entire courtroom was obviously upset with the prosecutor's attack of this independent witness. She had no pony in this show.

As a retired officer and academy instructor in Ohio, I thought it would be beneficial to watch the outcome of such a trial. Knowing that I had responding in much the same way on many calls throughout my career made me repeat a phrase I used a lot, "by the Grace of God go I". At anytime in America officers are responding to other officers in need of assistance. The easy answer is that we should always do the speed limit or always have our lights and sirens on, but anyone in this field knows it isn't that simple. We can't pull up to a bank robbery with lights on and sirens blaring. So, should we do the speed limit of 25mph the last half mile of our response while armed gunmen our inside with our citizens? Of course not, but society doesn't understand these things unless we educate them on "why we do what we do".

There is no bringing back Lakeisha White, and her family will never be the same. Sergeant Killings has obviously been traumatized as well. When

Preliminary data from the National Law Enforcement Officers Memorial Fund show that officer deaths declined 6 percent, from 133 in 2008 to 125 in 2009. That is the fewest line-of-duty deaths since 1959, when there were 108. The 2009 reduction was driven largely by a steep drop in traffic-related deaths. Still, for the 12th year in a row, more officers died in traffic-related incidents in 2009 than from any other single cause of death.

the verdict was read he had no look of relief on his face, just pain. There were no victors in this case. Killing's wife sat a few rows behind him sobbing into her hands. After a year of wondering knowing her husband wouldn't be facing the 4 years of prison carried by the charge. Killings had resigned out of respect to Sheriff Truman Jones after he was indicted by the Rutherford County Prosecutor's Office. Sheriff Jones was in the audience today to support his former Sergeant.

The Sheriff's Office and Killings's PBA attorney, Terry Fann, argued that this case was a tragic accident, not a crime. The civil suit was already settled for just under $300,000.00; the state maximum for a suit against a government entity. Nothing can ever replace this young girls life and I'm sure Killing's would like it all to do over again. How many times are we put into the same position that Sergeant Killing's was in that day? Cases like these should be used by the law enforcement community as a learning opportunity. When officers give their lives in the line of duty, or are tried for Reckless Homicide because of an accident we should learn from them. It is the best way to honor their sacrifices for society.

We need to insure that we review such cases as Sergeant Killing's with our new recruits. Through the police academies and FTO programs we need to instruct them on "why we do what we do". And ensure they can later articulate to others "why they did what they did".

PLAIN SMELL DOCTRINE CASES

OHIO v. MOORE [(2000), 90 Ohio St.3d 47.]

The smell of marijuana, alone, by a person qualified to recognize the odor, is sufficient to establish probable cause to conduct a search.

See Maumee v. Weisner (1999), 87 Ohio St.3d 295, 720 N.E.2d 507. However, even under such an analysis, if the smell of marijuana, as detected by a person who is qualified to recognize the odor, is the sole circumstance, this is sufficient to establish probable cause. There need be no additional factors to corroborate the suspicion of the presence of marijuana.

In the case at bar, Sergeant Greene testified regarding his extensive training and experience in identifying and detecting the smell of marijuana. There seems to be no dispute in this case that he was qualified to detect its characteristic odor. He testified that he did not detect the odor as he approached the defendant's vehicle. However, once the defendant lowered his window, Sergeant Greene immediately noticed the strong odor emanating from the inside of the vehicle. Sergeant Greene also testified that marijuana has a distinctive smell that cannot be compared to any other odor. Based on the strength of the odor emanating from the vehicle, Sergeant Greene believed that it was a fresh smell and that the substance had been recently burning.

The odor of marijuana was a reasonable ground for Sergeant Greene to believe that defendant was guilty of a drug-related criminal offense. Therefore, we conclude that Sergeant Greene had sufficient probable cause to conduct a search based exclusively upon the odor of marijuana coming from the defendant's vehicle and his person.

THE ROOKIE

Law Enforcement Job Sites

There are many sites that list postings for police positions throughout the nation. Watch the local papers as well and contact agencies to see if they accept "interest cards." They will then contact you when they are testing or accepting applications.

lawenforcementjobs.com

policeemployment.com

www.911hotjobs.com

policeone.com/careers

www.copcareer.com

www.theblueline.com

officer.com/jobs

lawofficer.com/careers/index.html

OHIO v. HOWARD, 2008-Ohio-2706

In support of its assignment of error, the state argues that the trained and experienced police officers' detection of the odor of unburned marijuana emanating from the trunk of Howard's automobile provided probable cause to search the trunk. We agree.

In State v. Moore,6 the Ohio Supreme Court held that "the smell of marijuana, alone, by a person qualified to recognize the odor, is sufficient to establish probable cause to search a motor vehicle[.]"7 In Farris, the Ohio Supreme Court fleshed out the "plain-smell" doctrine by holding that the odor of burned marijuana in the passenger compartment of a vehicle does not, standing alone, establish probable cause for a warrantless search of the trunk of the vehicle.8 In refusing to expand the search to the trunk of the car in Farris, the court noted that the police officer had only detected a light odor of marijuana emanating from the passenger compartment (not the trunk), and that officers had not found other contraband within the passenger compartment.9

After reviewing the record, we are convinced that the facts here are distinguishable from Farris. Here, the officers, who were trained and experienced in detecting the odor of unburned marijuana, both testified that they had smelled a strong odor of unburned marijuana emanating from the car, not just a light odor. But, more specifically, each officer specifically testified that the odor of the unburned marijuana was coming from the trunk of the car. (Howard was in the police cruiser, and each officer was standing by the trunk of the car when he detected the odor, indicating that the odor was not coming from Howard's person or solely from inside the passenger compartment of the car.)

You need courage, but courage is not the ability to become fearless, but the ability to recognize the safety of our society is more important than your individual fear.

MARYLAND v. SHATZER 2010 (Miranda)

Argued October 5, 2009--Decided February 24, 2010

In 2003, a police detective tried to question respondent Shatzer, who was incarcerated at a Maryland prison pursuant to a prior conviction, about allegations that he had sexually abused his son. Shatzer invoked his Miranda right to have counsel present during interrogation, so the detective terminated the interview. Shatzer was released back into the general prison population, and the investigation was closed. Another detective reopened the investigation in 2006 and attempted to interrogate Shatzer, who was still incarcerated. Shatzer waived his Miranda rights and made inculpatory statements. The trial court refused to suppress those statements, reasoning that Edwards v. Arizona, 451 U. S. 477, did not apply because Shatzer had experienced a break in Miranda custody prior to the 2006 interrogation. Shatzer was convicted of sexual child abuse. The Court of Appeals of Maryland reversed, holding that the mere passage of time does not end the Edwards protections, and that, assuming, arguendo, a break-in-custody exception to Edwards existed, Shatzer's release back into the general prison population did not constitute such a break.

Held: Because Shatzer experienced a break in Miranda custody lasting more than two weeks between the first and second attempts at interrogation, Edwards does not mandate suppression of his 2006 statements.

A break in Miranda custody of fourteen (14) days provides ample time for the suspect to get reacclimated to his normal life, to consult with friends and family and counsel, and shake off any residual coercive effects of prior custody. After a

fourteen (14) day break in custody, law enforcement may re-approach the suspect who is now back in custody. A waiver of Miranda rights then obtained is not presumed involuntary.

If a suspect invokes counsel under Miranda while in custody and is then released, nothing prohibits law enforcement from approaching, asking questions, and obtaining a statement without the Miranda lawyer present from the suspect who remains out of custody.

The majority and Justice Thomas raise the specter of a "catch and release" tactic where, after invoking counsel, a suspect is released and then re-arrested. Unless fourteen (14) days elapse between release and re-arrest, the previous invocation remains effective. Although it does not expressly state so, Justice Thomas suggests that the majority opinion requires law enforcement to wait fourteen (14) days after release before re-approaching a suspect who remains out of custody after previously invoking counsel under Miranda.

Ernesto Arturo Miranda ~The Whole Story

Ernesto Miranda was born in Mesa, Arizona on March 9, 1941. Miranda began getting in trouble when he was in grade school. Miranda's first criminal conviction was in eighth grade. The following year, he was convicted for burglary, and sentenced to a year in reform school. He would go on to arrests for armed robbery, sex offenses, as well as a dishonorable discharge from the Army.

In the early 1960's Miranda repeatedly abducted, kidnapped, raped and robbed young women in Phoenix, AZ. His truck was spotted and license plates recognized by the brother of an 18-year-old rape victim, Phoenix police officers Carroll Cooley and Wilfred Young arrested Miranda, took him to the station house and placed him in a lineup. After the lineup, when Miranda asked what he did, the police implied that he was positively identified. The police got a confession out of Miranda after two hours of interrogation, without informing him of his rights. After unburdening himself to the officers, Miranda was taken to meet the rape victim for positive voice identification. Asked by officers, in her presence, whether this was the victim, Miranda said, "That's the girl." The victim stated that the sound of Miranda's voice matched that of the culprit.

Miranda then wrote his confessions down. At the top of each sheet was the printed certification that the confessor makes "...this statement has been made voluntarily and of my own free will, with no threats, coercion or promises of immunity and with full knowledge of my legal rights, understanding any statement I make can and will be used against me."

Despite the statement on top of the sheets that Miranda was confessing "with full knowledge of my legal right", he was not informed of his right to have an attorney present or of his right to remain silent. The trial took place in mid-June 1963 before Maricopa County Superior Court Judge Yale McFate.

Moore objected to entering the confession by Miranda as evidence during the trial but was overruled. Mostly because of the confession, Miranda was convicted of rape and kidnapping and sentenced to 20 to 30 years on both charges. Moore appealed to the Arizona Supreme Court but the charges were upheld.

In November 1965, the Supreme Court agreed to hear Miranda's case, Miranda v. Arizona, along with three other similar cases to clear all misunderstandings created by the ruling of Escobedo v. Illinois. That previous case had ruled that,

> Under the circumstances of this case, where a police investigation is no longer a general inquiry into an unsolved crime but has begun to focus on a particular suspect in police custody who has been refused an opportunity to consult with his counsel and who has not been warned of his constitutional right to keep silent, the accused has been denied the assistance of counsel in violation of the Sixth and Fourteenth Amendments, and no statement extracted by the police during the interrogation may be used against him at a trial.

The opinion was released on June 13, 1966. Chief Justice Earl Warren wrote the opinion in Miranda v. Arizona. The decision was in favor of Miranda. It stated that - The person in custody must, prior to interrogation, be clearly informed that he has the right to remain silent, and that anything he says will be used against him in court; he must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation, and that, if he is indigent, a lawyer will be appointed to represent him.

Because of the ruling, police departments around the country started to issue Miranda Warning cards to their officers to recite. Typically, they read:

You have the right to remain silent. If you give up that right, anything you say can and will be used against you in a court of law. You have the right to an attorney and to have an attorney present during questioning. If you cannot afford an attorney, one will be provided to you at no cost. During any questioning, you may decide at any time to exercise these rights, not answer any questions or make any statements. Do you understand these rights as I have read them to you?


FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPA
WASHINGTON, D.C.
CURRENT ARREST OR RECEIPT
DATE ARRESTED OR RECEIVED
CHARGE OR OFFENSE
COUNT I-KIDNAPPING
COUNT II-RAPE(FIRST DEGREE)
TO BE CONSECUTIVE
OCCUPATION
RESIDENCE OR PERSON FINGERPRINTED
ERNEST MIRANDA
157 E. OSBORN
PHOENIX, ARIZONA

On my honor,

I will never betray my badge, my integrity, my character, or the public trust.

I will always have the courage to hold myself and others accountable for our actions.

I will always uphold the constitution my community and the agency I serve.

So help me God.

The Supreme Court set aside Miranda's conviction, which was tainted by the use of the confession that had been obtained through improper interrogation. The state of Arizona retried him. At the second trial, his confession was not introduced into evidence, but **he was convicted again anyway**. He was sentenced to 20 to 30 years in prison. It is important for new officers to realize that just because we lose a confession or piece of evidence doesn't mean the case is over. Even officers with the best of intentions and with great integrity will make mistakes. We are only human.

Miranda was paroled in 1972. After his release, he started selling autographed *Miranda* Warning cards for $1.50. Over the next years, Miranda was arrested numerous times for minor driving offenses and eventually lost the privilege to drive a car. He was arrested for the possession of a gun but the charges were dropped. But because this violated his parole he was sent back to prison for another year.

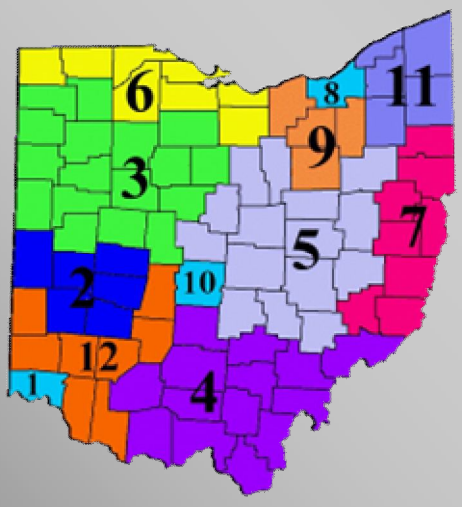
After his release, Miranda spent most of his time in poorly kept bars and cheap hotels in rough sections of Phoenix. Miranda, then working as a delivery driver, participated in a card game at La Amapola Bar. On January 31, 1976, a violent fight broke out and Miranda received a knife wound from a kitchen knife; he was pronounced dead on arrival. He was 34 years old. Police officers apprehended a male shortly afterwards and read him his Miranda rights from a small rectangular card, while the other murderer fled to Mexico.

The man suspected of killing him chose to exercise his right to remain silent after being read his Miranda Warning. He refused to talk to the police and, due to a lack of witnesses or other physical evidence, was never charged with Miranda's murder. Ernesto Miranda was buried at the Mesa City Cemetery in Arizona. Ironic isn't it?

Ohio officers commonly use a form that suspects initial and sign; indicating they know their rights.

United States Sixth Circuit Court of Appeals

Ohio falls under the Sixth Circuit along with Michigan, Kentucky, and Tennessee. As an officer in Ohio you need to keep abreast of decisions from several courts on case law. The U.S. Supreme Court, Sixth Circuit Court of Appeals, Ohio Supreme Court, and the Ohio District Court of Appeals jurisdiction you serve under. It may seem overwhelming to keep up with all of them, but local prosecutors commonly keep law enforcement up to date on cases that affect their duties. I wanted to include a recent decision from the Sixth Circuit on probable cause for searches in which they actually put a poem into their decision. No joke.



U.S. v. Brooks, 2010 U.S. App. LEXIS 2441, February 05, 2010

On the morning of October 10, 2006, two law enforcement officers, Lieutenant Rhoades and Patrolman Kilgore, were executing arrest warrants in connection with an operation of METRICH, a local joint drug task force in Richland County, Ohio. A state grand jury had indicted Brooks several months earlier for the state crime of Aggravated Drug Trafficking in Crack Cocaine. Rhoades and Kilgore thus sought out Brooks at his last known residence to serve the indictment and arrest him pursuant to a properly-issued arrest warrant. Brooks answered when the officers knocked on the door of the residence. The officers served Brooks with the indictment and placed him under arrest. The officers also smelled a strong odor of marijuana smoke wafting from the residence.

Brooks indicated that he needed to put on a pair of shoes before going to the police station with the officers. Lieutenant Rhoades accompanied Brooks to a bedroom so that he could retrieve his shoes. In the bedroom, Rhoades observed an ashtray that contained marijuana seeds. At some point during this process,

the officers also conducted a patdown search of Brooks and found $1,000 in cash in Brooks's back pocket.

At this point, most readers will assume they know what comes next—the officers immediately search the parts of the bedroom not in plain view, find more contraband, and then go get a search warrant. Surprisingly, and encouragingly, this is not the case. Instead, the officers took Brooks out of the residence and froze the scene. They then met with other METRICH officers and prepared an application for a warrant to search the residence. The key aspect of a search warrant application is the affidavit submitted to the magistrate to establish probable cause. The warrant was primarily based on the odor of smoked marijuana indicated by arresting officers along with marijuana seeds in an ashtray. The officers noticed scales and other drug paraphernalia items in plain view but failed to put that information into the search warrant. Therefore it could not be considered by the courts.

The affidavit was a sloppy cut and paste job with mostly stale information from drug buys that occurred months or years earlier. Brooks' attorney argued that there wasn't enough probable cause to arrest his client, let alone get a search warrant. He also argued that the odor of marijuana indicates the drugs are most likely gone.

On this question, Brooks and the district court focus on the relatively minor nature of what the officers observed—the odor of marijuana smoke and marijuana seeds in an ashtray. The district court reasons that "the odor of marijuana and the presence of marijuana seeds are, at best, evidence of a minor misdemeanor, for which Brooks could not be arrested under Ohio law." The district court found in favor of Brooks and excluded the evidence of crack cocaine found during the search. The Sixth Circuit disagreed with their logic and found in favor of the officers and the State of Ohio. They reasoned the following:

Probable cause to search a location is not dependent upon whether the officers already have probable cause or legal justification to make an arrest. The question is whether the information known by the affiant and conveyed to the magistrate makes it fairly probable that there will be additional contraband or evidence of a crime in the place to be searched.

Probable cause to search for more marijuana exists where there is evidence of marijuana use immediately prior to the officers "arrival (the strong odor of marijuana smoke). The magistrate is not required to assume that the defendant has just smoked his last bit of marijuana immediately before the officers arrived. Instead, it is fairly probable under these facts that where there is smoke, there may be more there to smoke.

The same logic does not necessarily apply to the seeds in the ashtray as, standing alone and without the corroboration of the smell of marijuana smoke, it is impossible to know how long the seeds had been in the ashtray. Accordingly, the mere presence of marijuana seeds in an ashtray would likely be insufficient to establish probable cause to search the residence due to the uncertainty of how long ago the seeds got there.

"Even then, however, we [the Court] take note of the story told in Jim Stafford‟s down-home tribute to Cannabis sativa:

> All good things gotta come to an end,
> And it‟s the same with the wildwood weeds.
> One day this feller from Washington came by,
> And he spied „em and turned white as a sheet.
> Well, they dug and they burned,
> And they burned and they dug,
> And they killed all our cute little weeds.
> Then they drove away,
> We just smiled and waved,
> Sittin‟ there on that sack of seeds!

JIM STAFFORD,WILDWOOD WEED (MGM 1974)."

In fact the Sixth Circuit ignored 11 other paragraphs in the affidavit, which were mostly stale information anyway, and stated "Accordingly, we believe that the information in paragraph 9, without regard to any other information in the affidavit, was sufficient to establish probable cause to search the residence for evidence of crime or for contraband." That paragraph follows:

> **9. On October 10, 2006, the affiant, made contact with Lyna Brooks at his residence located at 135 Vale Avenue, Mansfield, Richland County, Ohio in reference to an Indictment for Aggravated Trafficking in Crack Cocaine. Brooks was placed under arrest. The odor of marihuana was strong in the residence. When the affiant took Brooks into his bedroom to get shoes there were marihuana seeds located in the ashtray in plainview Brooks stated this bedroom belonged to him and was on the first floor, south side of the house. In Brooks rear hip pocket was $ 1,000 in United States currency. Brooks refused a consent to search.**

That was all the Sixth Circuit said it takes to meet the requirements. The odor, seeds, and large sum of money = search warrant in Ohio! The officers should have also added the set of scales and a "roach clip" used for smoking marijuana cigarettes they observed in the bedroom. The officers also assert that Brooks admitted to smoking marijuana in the residence shortly before the officers arrived. That information was also left out of the affidavit to search.

Georgia v. Randolph (Consent Search)

Respondent Scott Randolph and his wife, Janet, separated in late May 2001, when she left the marital residence in Americus, Georgia, and went to stay with his parents in Canada, taking their son and some belongings. In July, she returned to the Americus house with the child, though the record does not reveal whether her object was reconciliation or retrieval of remaining possessions.

On the morning of July 6, she complained to the police that after a domestic dispute her husband took their son away, and when officers reached the house she told them that her husband was a cocaine user whose habit had caused financial troubles. She mentioned the marital problems and said that she and their son had only recently returned after a stay of several weeks with her parents. Shortly after the police arrived, Scott Randolph returned and explained that he had removed the child to a neighbor's house out of concern that his wife might take the boy out of the country again; he denied cocaine use, and countered that it was in fact his wife who abused drugs and alcohol.

One of the officers, Sergeant Murray, went with Janet Randolph to reclaim the child, and when they returned she not only renewed her complaints about her husband's drug use, but also volunteered that there were “items of drug evidence” in the house. Sergeant Murray asked Scott Randolph for permission to search the house, which he unequivocally refused.

The sergeant turned to Janet Randolph for consent to search, which she readily gave. She led the officer upstairs to a bedroom that she identified as Scott's, where the sergeant noticed a section of a drinking straw with a powdery residue he suspected was cocaine. He then left the house to get an evidence bag from his car and to call the district attorney's office, which instructed him to stop the search and apply for a warrant. When Sergeant Murray returned to the house, Janet Randolph withdrew her consent. The police took the straw to the police station, along with the Randolphs. After getting a search warrant, they returned to the house and seized further evidence of drug use, on the basis of which Scott Randolph was indicted for possession of cocaine.

He moved to suppress the evidence, as products of a warrantless search of his house unauthorized by his wife's consent over his consent over express refusal.

In a 5-3 opinion authored by Justice David Souter, the Court held a co-resident could refuse a consent search even if another resident consented. Specifically, Souter wrote:

> The question here is whether such an evidentiary seizure is likewise lawful with the permission of one occupant when the other, who later seeks to suppress the evidence, is present at the scene and expressly refuses to consent. We hold that, in the circumstances here at issue, a physically present co-occupant's stated refusal to permit entry prevails, rendering the warrantless search unreasonable and invalid as to him.

The Court's decision distinguished its previous rulings in Illinois v. Rodriguez, 497 U.S. 177 (1990) and Matlock. In Rodriguez and Matlock the police obtained voluntary consent from a co-occupant at the residence and found evidence implicating another resident who was not present at the time the police obtained consent. The court reasoned that the present case was different from the previous two in that the co-resident was not present to refuse consent to the search. In Rodriguez the co-occupant who later objected to the search was asleep in a bedroom within the residence. In Matlock the later objecting co-occupant was located in a nearby police vehicle.

Justice Breyer's concurrence stressed that the majority opinion was rather specific, writing "the circumstances here include the following":

> The search at issue was a search solely for evidence. The objecting party was present and made his objection known clearly and directly to the officers seeking to enter the house. The officers did not justify their search on grounds of possible evidence destruction. Cf. Thornton v. United States, 541 U. S. 615, 620–622 (2004); Skinner v. Railway Labor Executives' Assn., 489 U. S. 602, 623 (1989); Schmerber v. California, 384 U. S. 757, 770–771 (1966) . And, as far as the record reveals, the officers might easily have secured the premises and sought a warrant permitting them to enter. See Illinois v. McArthur, 531 U. S. 326 (2001) . Thus, the "totality of the circumstances" present here do not suffice to justify abandoning the Fourth Amendment's traditional hostility to police entry into a home without a warrant. I stress the totality of the circumstances, however, because, were the circumstances to change significantly, so should the result.

April 2010

THE ROOKIE

POLICE INSTRUCTOR

Dear Mary,

Prison is not as bad as I thought. My cellmate really likes me. I think he works in the kitchen. I overheard him talking to another guy today, saying he was going to personally "toss my salad" later...

You will become 21st century knights. Just as noble knights of old wore their shield on their left side, so will you. They donned armor daily and hung a weapon from their hip, as will you. They went into society to serve others and maintain justice throughout the land. That same mission will now be filled by those of you courageous enough to become law enforcement officers.