

NINTH CIRCUIT SAYS OFFICERS MAY SEIZE WIFE’S GUN WITHOUT A WARRANT BECAUSE HUSBAND’S ACUTE MENTAL HEALTH EPISODE POSED A THREAT TO THE COMMUNITY

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Rodriguez v. City of San Jose

Ninth Circuit Court of Appeals

July 23, 2019

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The Ninth Circuit yesterday held that a husband's acute mental health episode justified the warrantless seizure of his wife's gun in her home under the "emergency exception" to the Fourth Amendment's warrant requirement.

The wife had called officers to conduct a welfare check because her husband was acting erratically. Officers had previously been called to the residence. Before they arrived, they learned the husband had guns in the home. Upon arrival, the husband was ranting about the CIA, the army, and other people watching him. He also mentioned "[s]hooting up schools," and specifically referenced guns in the safe. When asked if he wanted to hurt himself, he attempted to break his own thumb.

The officers concluded that the suspect was in the midst of an acute mental health crisis that made him a danger to himself and others. They detained him for a mental health evaluation and sent him to the hospital. The officers then entered the home, asked his wife to open his gun safe, and confiscated twelve firearms, including a gun the wife owned before their marriage. The wife unsuccessfully objected to the removal of this weapon. The husband was released from the hospital a week later.

The next month, the City sought forfeiture of the guns based on a determination that their return would likely endanger the husband or others. The husband did not object, but his wife did, on Second Amendment grounds. The trial court granted the forfeiture request, which the state court of appeals affirmed. The wife then sued the City and an officer for return of the guns and damages. She argued, among other things, that the warrantless seizure of her gun violated her Fourth Amendment rights. The court disagreed, and granted summary judgment for the defendants.

The Ninth Circuit affirmed. Police officers are fulfilling a “community caretaking function” when they act to protect public health and safety. This caretaking role requires officers to comply with the Fourth Amendment’s warrant requirement. However, officers in the course of community caretaking may (a) make warrantless home entries to investigate safety or medical emergencies, and (b) make warrantless seizures of vehicles that jeopardize public safety and movement of vehicular traffic—such as when a driver is detained or has become incapacitated. Here, the Court expanded the “emergency exception” to allow the warrantless seizure of firearms in the possession or control of a person detained because of an acute mental health episode. Balancing (1) the public safety interest; (2) the urgency of that public interest; and (3) the individual property, liberty, and privacy interests, the Court concluded that there was a substantial public safety interest in ensuring that the guns would not be available to the husband should he return from the hospital. The officer’s warrantless seizure of the firearms therefore did not violate the wife’s Fourth Amendment rights.

The Court reiterated that its holding was “limited to the particular circumstances here: the officers had probable cause to detain involuntarily an individual experiencing an acute mental health episode and to send the individual for evaluation, they expected the individual would have access to firearms and present a serious public safety threat if he returned to the home, and they did not know how quickly the individual might return. Under these circumstances, the urgency of a significant public safety interest was sufficient to outweigh the significant privacy interest in personal property kept in the home, and a warrant was not required.”

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