



US SUPREME COURT RULES ON DISPUTED SEARCHES

In a decision of importance to pool Members, NBC News reports that the U.S. Supreme Court ruled last week to allow disputed home searches without a warrant. Pete Willams and Eric Ortiz reported the court has ruled that police can search a home without a warrant if one of the occupants consents — and even if an occupant who would object isn't home at the time.

The 6-3 vote, which highlights Americans' Fourth Amendment protections against unreasonable searches and seizures, stems from a 2009 case in Los Angeles.

Walter Fernandez was suspected in an earlier robbery and stabbing, and when police arrived without a warrant at his apartment, he told them they couldn't come inside. Officers, however, noticed his girlfriend was bruised and bloodied, and so they removed Fernandez on suspicion of domestic abuse.

In the meantime, the girlfriend, who also lived at the apartment, allowed police in. Authorities found a shotgun, ammunition and a knife.

Fernandez's lawyers argued that while the girlfriend had consented to a search, he objected. The court held that her consent was enough because the defendant was not physically present to object — even though police were the reason he wasn't there. The high court upheld the conviction against Fernandez, who had been sentenced to 14 years in prison on robbery and gun charges.

Back in 2006, the Supreme Court ruled 5-3 that police are able to search a home as long as one occupant says yes. But this latest case also tested the right of the police to enter when the objector was no longer there.

Justices Sonia Sotomayor, Ruth Bader Ginsburg, and Elena Kagan were the three dissenting votes. They said the ruling makes it too easy for police to conduct searches without a warrant.

“Today's decision tells the police they may dodge it, never mind ample time to secure

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the approval of a neutral magistrate,” Ginsburg said.

Further information may be gained by reading *State of California v. Fernandez*.

Before implementing this decision into policy, AMRRP Loss Control suggests you obtain legal advice from your municipal attorney's office or legal advisor.

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