

Guns in The News

Supreme Court Upholds Sanctity of the Home, Rejects Expanded Police Power in Gun Seizure Case

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In 1969, Chester Dombrowski, an off-duty Chicago police officer, had a single-vehicle accident while driving under the influence. Officers who responded to the scene did not find his service firearm on him. After the intoxicated (and later comatose) Dombrowski was taken to hospital and the wrecked car was towed, police searched the car for the missing gun and instead uncovered evidence that implicated him in a homicide. Dombrowski appealed his first-degree murder conviction on the basis that the warrantless, suspicionless vehicle search was unconstitutional under the Fourth Amendment. In *Cady v. Dombrowski*, the U.S. Supreme Court disagreed. While police cannot search private property without consent or a warrant “except in certain carefully defined classes of cases,” officers were often called upon to deal with vehicle accidents where there was no claim of liability. The Court emphasized the clear “constitutional difference between houses and cars,” finding that the “frequency with which a vehicle can become disabled or involved in an accident” required officers to act in a “community caretaking” role, one “totally divorced” from criminal investigation and enforcement (in Dombrowski’s case, it appeared police already had sufficient evidence for a drunk driving charge). The warrantless search was not unreasonable as “elemental reasons of safety” justified the police in taking custody of the vehicle and attempting to locate the firearm.

This year, the Supreme Court had occasion to examine the scope of this “community caretaking” exception and decide whether it extended beyond the motor vehicle context. In a ruling released on May 17, a unanimous Court held it did not.

The case involved Edward Caniglia and the seizure of his firearms. In an argument with his wife, he had placed an unloaded handgun on their dining room table, telling her, “shoot me now and get it over with.” His wife hid the gun and later left the home. The next morning, after Caniglia failed to answer her phone calls, she asked the Cranston, Rhode Island police to conduct a welfare check. Her evidence was that she wanted to have the police take her home, knock on the door and see whether her husband was okay (“we would talk and if things were fine, the officer would leave”).

The police were able to reach Caniglia, who “sounded fine.” The officers arrived at the home and confirmed that he was calm, “seemed normal,” and expressed he had no intention of killing

himself. The officers maintained there was still a risk of harm. Caniglia maintained that the officers promised not to confiscate his firearms if he went to the hospital for a psychiatric evaluation. After Caniglia was taken away, the officers not only ignored this stipulation but apparently falsely represented to his wife that Caniglia had consented to the seizure. Police entered the home and confiscated the guns after his wife showed them where they were kept.

When Caniglia asked that his guns be returned, the police stalled, first requiring the consent of the police captain and later demanding a court order. Caniglia was forced to retain an attorney and initiate the lawsuit that went all the way to the U.S. Supreme Court.

At the time of the police visit, Caniglia was 68 years old and had no criminal history and no record of violence. The police visit did not involve an emergency, exigent circumstances or a criminal investigation. Caniglia's guns were lawfully possessed and he was never placed under arrest. He was released from the hospital the same day, without being admitted as an inpatient and after being cleared by a nurse, social worker, and doctor. There was no warrant or civil order authorizing the seizure; the officers' sole justification for the detention, entry and seizure was that they were acting in their role as "community caretakers."

Caniglia's lawsuit alleged violations of his federal Second, Fourth and Fourteenth Amendment rights, as well as state law claims.

The court of first instance found that as long as the officers acted reasonably, the warrantless entry and seizure were allowed by the "community caretaking" exception, as the "community caretaking doctrine gives officers a great deal of flexibility." However, the seizure of firearms without a policy, custom, or procedure for their return violated due process rights under the Fourteenth Amendment.

On appeal, the U.S. Court of Appeals for the First Circuit affirmed. In a case of first impression for the circuit, the court (a panel that included retired U.S. Supreme Court Justice David Souter) concluded that the "community caretaking" exception to the warrant requirement extended to officers performing community caretaking functions on private premises, and that the seizure of guns was justified under this exception. "Threats to individual and community safety are not confined to the highways," they wrote, and the extension "recognize[s] what we have termed the 'special role' that police officers play in our society." The police activities at issue – including the seizure of firearms and a warrantless, nonconsensual entry into a home to make that seizure – "are a natural fit for the community caretaking exception."

Fleshing out this expanded "community caretaking" concept, the panel stated that officers acting under this rubric had to have "solid, noninvestigatory reasons" based on "specific articulable facts." Provided they acted reasonably, officers were not required to select the least intrusive means of response nor were they bound by "the application of either established protocols or fixed criteria." Unlike exigent circumstances and emergency aid exceptions to the warrant requirement, "community caretaking" was not tied to the same "degree of immediacy" and had a "more expansive temporal reach."

No especially vivid imagination is needed to envision how far law enforcement could go under this elastic new rule. One is reminded of the First Circuit’s justification for the “strategic deployment of an empty promise” to get Caniglia into an ambulance and away from his home, as consistent with the “longstanding principle that ‘deception is a well-established and acceptable tool of law enforcement.’”

A friend of the court brief filed by the ACLU, the Cato Institute and others in the ensuing appeal to the Supreme Court observed that “everything from loud music to leaky pipes have been used to justify warrantless invasion of the home,” and that the First Circuit’s “community caretaking” exception “eviscerates” Fourth Amendment protections. “We have ... lived our whole national history with an understanding of ‘the ancient adage that a man’s house is his castle.’ ” ... But if the decision below is correct, that castle is made of sand.”

In a unanimous and unusually brief decision, the Supreme Court categorically refused to extend the *Cady* “caretaking” exception beyond the original motor vehicle context.

Justice Clarence Thomas, writing for the Court, slammed the First Circuit’s version of the “community caretaking” exception as going “beyond anything this Court has recognized.” The officers lacked a warrant or consent, and there was no question of exigent circumstances. The officers could not claim their actions were analogous to what a private citizen might have had the authority to do in the circumstances. The Court’s earlier ruling in *Cady* – the basis for the caretaking exception – was clearly predicated on the “unmistakable distinction between vehicles and homes.”

The “very core” of the Fourth Amendment was “the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.” The Supreme Court was unmoved by the First Circuit’s asserted need to bend existing law to give police more “elbow room to take appropriate action,” responding, witheringly, that the “recognition that police officers perform many civic tasks in modern society was just that—a recognition that these tasks exist, and not an open-ended license to perform them anywhere.”

In a concurrence, Justice Samuel Alito emphasized that the decision was restricted to its facts: the case did not involve laws allowing emergency seizures for psychiatric observation or treatment or “red flag” laws. “Provisions of red flag laws may be challenged under the Fourth Amendment, and those cases may come before us. Our decision today does not address those issues.”

The Supreme Court vacated the First Circuit’s decision and remanded the case for further proceedings consistent with its opinion. The only authority relied on by the police was the “community caretaking” exception; given that the ruling restricts that authority to seizures involving vehicles, there isn’t anything else the police can point to as validating their conduct in this case.

The decision is a setback for the Biden Administration, which defended the warrantless, nonconsensual gun seizure in this case as constitutional. President Biden has called for sweeping gun control measures, including confiscation of commonly-owned firearms and “investing in

evidence-based community violence interventions” – all of which would be facilitated immeasurably if the government, as a “community caretaker,” had expanded authority to enter homes and seize property without consent, exigent circumstances or a warrant.