

GEORGIA V. RANDOLPH (No. 04-1067) ANNOUNCEMENT

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Justice Souter has the opinion in No. 04-1067, Georgia v. Randolph.

U.S. DISTRICT COURT
EASTERN DIST. TENN.

“This case comes to us on writ of certiorari to the Supreme Court of Georgia. Police responded to a call to go to the home of Scott and Janet Randolph, where Janet told the police that there was evidence of Scott’s drug use inside.

Scott refused permission to search the house, but Janet consented.

She led an officer to a bedroom, where he observed a straw with powdery residue he suspected was cocaine.

The officer collected the straw.

Scott was later convicted of possession of cocaine after his motion to suppress that evidence was denied.

The Supreme Court of Georgia held that the evidence had been illegally seized and should have been suppressed.

We granted certiorari to resolve the split of authority on whether a physically present co-occupant’s stated refusal to permit entry renders a warrantless search invalid as to him, despite a co-occupant’s consent.

We hold that the co-occupant’s refusal is effective and so affirm the Supreme Court of Georgia. In *United States v. Matlock*, we held that a consent to search by one who possesses common authority over premises is valid as against an absent non consenting person with whom that authority is shared.

We explained there that the common authority is not synonymous with a property interest, but instead is, in significant part, a function of commonly held understandings about the authority that co-inhabitants may exercise in ways that affect each other’s interests.

It is fair to say that a caller standing at the door of a shared premises would typically not go inside despite one co-occupant’s invitation if the other occupant stood there saying, “Stay out”.

The visitor’s reticence would reflect the common understanding that one co-tenant generally has no right to prevail over the express wishes of another, an understanding which is, in fact, borne out in property law.

Since the co-tenant wishing to open the door to a third party thus has no recognized authority in law or social practice to prevail over a present and objecting co-tenant. His disputed invitation without more gives a police officer no better claim to reasonableness in

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entering than the officer would have had in the absence of any consent at all.

Accordingly, in the balancing of competing individual and Government interests entailed by the bar to the unreasonable searches, disputed permission is no match for the objecting individual's claim to the centuries-old principle of respect of the inviolability of the home.

It is true that the consenting tenant may have an interest in bringing criminal activity to light and in deflecting suspicion from himself, but he may aid police in ways other than giving them entry: he may retrieve evidence for the police, for example, and the information he provides may be used by police in getting a warrant; and if it appears that the consenting co-tenant is the victim of domestic violence, the police may enter not for the purpose of conducting a search, but for the purpose of providing protection.

Nothing in social custom or its reflection to private law argues for placing a higher value on delving into private premises to search for evidence than on requiring clear justification before the Government searches private living quarters over a resident's objection.

We therefore hold that a warrantless search for evidence in a shared dwelling over the express refusal of consent by a physically present resident cannot be justified as reasonable as to him on the basis of consent given to the police by another resident."