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## *United States v. Knights:*

### **Warrantless Search of a Defendant, Authorized by a Condition of Probation and Supported by Reasonable Suspicion, Satisfied Fourth Amendment Requirements**

By Kristen Hitchner

The United States Supreme Court held that a search pursuant to a probation condition and supported by reasonable suspicion, satisfied requirements of the Fourth Amendment. *United States v. Knights*, 534 U.S. 112, 151 L. Ed. 2d 497 (2001). In so holding, the Court determined that one's status as a probationer diminishes the reasonable expectation of privacy enjoyed by other citizens. *Id.*

Mark James Knights ("Knights") was sentenced by a California court to probation for a drug offense. The probation order specified that Knights submit to a "search at anytime, with or without a search or arrest warrant or reasonable cause, by any probation or law enforcement officer." The probation order, which Knights signed, stated immediately above his signature that "I have received a copy, read and understand the above terms and conditions of probation and agree to abide by same."

Soon after Knights was placed on probation, a local power transformer and telecommunications vault were pried open and set on fire. Police suspicion for these and thirty prior acts of vandalism suggested involvement by Knights and his friend, Steven Simoneau. The incidents began soon after the power company filed a theft-of-services complaint against Knights and discontinued his

electrical service for non-payment. A local sheriff's detective, Todd Hancock ("Hancock"), noticed that the vandalism coincided with Knight's court appearances concerning the theft. Based upon these observations, Hancock decided to search Knights' apartment. Hancock did not obtain a warrant for the search because he "was aware of the search condition in Knight's probation order and, thus, believed that a warrant was not necessary." Subsequent to the search, Knights was arrested.

A federal grand jury indicted Knights for conspiracy to commit arson, possession of an unregistered destructive device, and being a felon in possession of ammunition. Knights moved to suppress the evidence discovered as a result of the search. The district court granted Knights' motion. The Court of Appeals for the Ninth Circuit affirmed, relying on its earlier decision holding that a search condition in a probation order "must be seen as limited to probation searches, and must stop short of investigation searches." The Supreme Court of the United States granted certiorari.

The Court rejected the reasoning relied upon by the Court of Appeals for the Ninth Circuit, noting that the California Supreme Court upheld searches "whether the purpose of the search is to monitor the probationer

or to serve some other law enforcement purpose." *Id.* (quoting *People v. Woods*, 21 Cal. 4th 668, 681, 981 P. 2d 1019, 1027 (1999)). The Court observed that nothing in the condition of probation suggested that searches be confined to those for probationary purposes only. *Id.* The search condition provided that Knights would submit to a search "by any probation officer or law enforcement officer," with no mention of purpose. *Id.* Based on its review of the probation order, the Court limited its analysis to whether the Fourth Amendment limits searches pursuant to a probation condition to those with a "probationary" purpose. *Id.*

Knights contended that a warrantless search of a probationer satisfies the Fourth Amendment only if it is exactly like the search at issue in *Griffin v. Wisconsin*, 483 U.S. 868, 97 L. Ed. 2d 709, 107 S. Ct. 3164 (1987). *Id.* at 590. In *Griffin*, the Court upheld the search of a probationer conducted pursuant to a regulation permitting a warrantless search of a probationer's home, on the conditions that there be 'reasonable ground' to believe that contraband is present and that the probation officer's supervisor has given approval for the search. *Id.* (quoting *Griffin v. Wisconsin*, 483 U.S. 868, 97 L. Ed. 2d 709, 107 S.

Ct. 3164 (1987)). The regulation, at issue in *Griffin*, “was not an express part of Griffin’s probation.” *Id.* The Court held that a “state’s operation of its probation system presented a ‘special need’ for the ‘exercise of supervision to assure that probation restrictions are in fact observed.’” *Id.* The special need justified Wisconsin’s regulation and, therefore, the search pursuant to it was reasonable. *Id.*

Additionally, the Court held that “probation diminishes a probationer’s reasonable expectation of privacy — so that a probation officer may, consistent with the Fourth Amendment, search a probationer’s home without a warrant and with only ‘reasonable grounds’ (not probable cause) to believe that contraband is present.” *Id.* at 591. The Court went further to state that, by upholding the constitutionality of the search in *Griffin*, it was not implicitly holding that any search not like it is unconstitutional. *Id.* Because the Court found that the search of Knights’ home was reasonable under a totality of the circumstances analysis, it was unnecessary to address whether Knights’ acceptance of the search condition constituted consent in the sense of a waiver of his Fourth Amendment rights. *Id.* at 591.

The Court, in analyzing the Fourth Amendment, expressed that reasonableness is the “touchstone of the Fourth Amendment” and “is determined by ‘assessing, on one hand, the degree to which it intrudes upon an individual’s privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests.’” *Id.* (quoting

*Wyoming v. Houghton*, 526 U.S. 295, 300 (1999)). Knights, as a probationer, was touched by both sides of the balancing test for reasonableness. *Id.* Because probation is a criminal sanction imposed by the court upon an offender, it is inherent that probationers will not, and do not, enjoy the absolute liberties to which other citizens are entitled. *Id.* The Court explained that any court granting probation may impose reasonable conditions that deprive an offender of some freedoms enjoyed by law-abiding citizens. *Id.* “The probation order clearly expressed the search condition and Knights was unambiguously informed of it.” *Id.* at 592. Therefore, the condition significantly diminished Knight’s reasonable expectation of privacy. *Id.*

In assessing the government’s interests, the Court observed that there are two concerns: rehabilitation and preventing recidivism. *Id.* If the Court of Appeals for the Ninth Circuit was correct in its holding, the government would be forced to focus only on the first concern while ignoring the latter concern. *Id.* The Court’s holding, however, justifies the government’s focus on probationers in ways not constitutionally permitted for the ordinary citizen. *Id.*

Finally, the Court held that although the Fourth Amendment ordinarily requires probable cause, the balancing of the competing considerations requires no more than reasonable suspicion to conduct a search of a probationer’s house. *Id.* A lesser degree of probability satisfies the Constitution when balancing the

interests of the government against those of private citizens. *Id.* The Court held that the same circumstances that led it to find that “reasonable suspicion is constitutionally sufficient [for a search] also render a warrant requirement unnecessary.” *Id.*

The holding in *United States v. Knights* is a reflection of the “tough on crime” attitude now prevalent in the United States. The holding allows law enforcement to target convicted criminals on probation without observing the same procedural safeguards, as they would have to with other citizens. In the instant case, the Court affirms the erosion of the expectation of privacy for certain classes of people, specifically probationers, because the government’s interests in protecting citizens and reducing crime outweigh those of probationers.