

ALASKA SUPREME COURT

February 19, 2010

Oral Argument Case Summary

CASE #2

State of Alaska v. Robert Duane Gibson, III,

Petition for Hearing from the Court of Appeals

Supreme Court No. S-13509

***Disclaimer:** This summary of the case was prepared for educational purposes only by the Supreme Court LIVE program coordinator and does not reflect the views of any member of the court.*

ATTORNEYS

- *Attorneys for the Petitioner, State of Alaska:*

Daniel S. Sullivan, Attorney General
W. H. Hawley, Assistant Attorney General
- *Attorneys for the Respondent, Robert Gibson:*

Quinlan Steiner, Public Defender
Sharon Barr, Assistant Public Defender

QUESTION PRESENTED ON APPEAL

(Petitioner): “May police officers responding to a 911 call reporting a domestic assault walk through the residence from which the call came when in the circumstances they reasonably believe other injured persons may be inside?”

(Respondent): “Does the emergency aid exception to the warrant requirement permit the police to enter a residence when the victim and suspect in an alleged domestic violence assault are outside of the small single-wide trailer in which they reside, the victim has told police there is no one else inside the trailer, and the police have no evidence that anyone else is inside the house?”

MAJOR AUTHORITIES TO CONSIDER

U.S. Constitution, Amendment IV—Search & Seizure

Alaska Constitution, Article 1 Section 14—Searches & Seizures

Alaska Constitution, Article 1, Section 22—Right of Privacy

AS 11.71.020(a)—Misconduct Involving a Controlled Substance in the Second Degree

***Stevens v. State*, 443 P.2d 600** (Alaska 1968)—Alaska Supreme Court case on the emergency aid exception to the requirement for a search warrant

***Gallmeyer v. State*, 640 P.2d 837** (Alaska App. 1982)—Alaska Court of Appeals case on the emergency aid exception to the requirement for a search warrant

SUMMARY OF THE CASE

On July 10, 2002, two Anchorage police officers responded to a 911 call from a woman who was being threatened with a knife by a man. When the officers arrived on the scene—a single-wide trailer—a woman emerged with a swollen eye and a bleeding head, wearing only a tank top, saying “help me, help me.” The woman reentered the trailer for more clothes and a man came to the door. The officers drew their weapons and instructed the man to come out of the trailer. He did so, and was handcuffed and placed in the patrol car. The woman, who had again come out of the trailer, became very upset and confrontational. An officer asked her if there was anyone else in the trailer and she said there wasn’t. A third officer arrived and guarded the man and woman while the first two officers walked through the trailer. On the walk-through, they found no other people, but observed what they thought was a clandestine methamphetamine lab. The third officer, who had received training in methamphetamine labs, then entered the trailer and confirmed that the glassware, equipment and supplies in the trailer were those of such a lab. The third officer contacted the Drug Enforcement Unit and two officers from that unit then arrived and entered the trailer. After the drug unit officers had inspected the trailer, a search warrant was obtained.

Based on evidence obtained in the search, Respondent Robert Gibson was indicted on three counts of second-degree misconduct involving a controlled substance (manufacturing material containing methamphetamine), a class A felony, and one count of maintaining a dwelling used to keep controlled substances, a class C felony.¹ Gibson’s attorney filed a motion to suppress the evidence from the search on the grounds that it was unlawful for the officers to enter Gibson’s trailer without a search warrant. The State opposed the motion, and the trial judge ruled in favor of the State, finding that the warrantless search of the trailer was justified under the “emergency aid” exception to the general warrant requirement. Specifically, the trial judge concluded that the police had “reasonable grounds to believe that there is an emergency at hand and an

¹ Three years later, on May 16, 2005, he was charged by information with fourth degree assault against the woman at the trailer scene. The woman was Gibson’s co-defendant on the drug charges and was convicted ultimately of one count of fourth-degree misconduct involving a controlled substance (possession of methamphetamine). She is not a party to this appeal.

immediate need for their assistance for the protection of life and property.” Gibson was subsequently convicted on the three felony counts after a jury trial.²

LEGAL ISSUES GENERALLY

Gibson appealed his conviction to the Alaska Court of Appeals—the intermediate appellate court for criminal cases. Gibson argued that the officers violated his rights under the U.S. and Alaska Constitutions by entering his home without a warrant under circumstances that failed to satisfy the “emergency aid” exception to the warrant requirement. The exception did not apply because there was no reason to believe that an emergency continued to exist when the officers entered the trailer. Analyzing the case under the standard set forth in *Gallmeyer v. State*, 640 P.2d 837 (Alaska App. 1982), the Court of Appeals agreed with Gibson and held that the initial entry into the trailer was illegal, reversing Gibson’s conviction and remanding the case to the trial court for further proceedings.

The State filed a Petition for Hearing with the Alaska Supreme Court seeking discretionary review of the case, which was granted. The State (now the “petitioner”) urges the supreme court to overturn the Court of Appeals decision and remand the case. Gibson (now the “respondent”) urges the supreme court to affirm the Court of Appeals decision.

The main issues in this case are (1) whether the Court of Appeals applied the correct legal standard in determining that the “emergency aid” exception to the warrant requirement did not apply, and (2) whether the facts of this case, analyzed under the proper legal standard, justify an “emergency aid” exception to the general requirement that a warrant be obtained before officers can enter a home.

According to the State, the Court of Appeals applied a stricter standard for the “emergency aid” exception than required under the test established by the Alaska Supreme Court. In *Stevens v. State*, the Alaska Supreme Court held that the “emergency aid” exception applies when a police officer reasonably believes that an emergency exists. The critical factor is “the reasonableness of the belief of the police as to the existence of an emergency, not the existence of an emergency in fact.”³ The Alaska Court of Appeals subsequently adopted a three-part test for the “emergency aid” doctrine in the case of *Gallmeyer v. State*. For an emergency entry to be justified, the court held that the following must be shown:

1. The police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property;

² Gibson was not convicted of the assault charge, but was convicted of the lesser included offense of disorderly conduct.

³ *Stevens v. State* at 602, footnote 4.

2. The search must not be primarily motivated by intent to arrest and seize evidence; and
3. There must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched.⁴

The *Gallmeyer* court used the language “true necessity” to describe the level of urgency required for the first prong of this test. According to the State, this creates a “true necessity” standard that is more rigorous than the supreme court contemplated in *Stevens*. Requiring such a strict showing of necessity is unsupported by precedent and would prevent police officers from adequately protecting victims of crime and rescuing those in difficulty. According to Gibson, the words “true necessity” do not create a different standard, but simply define and elaborate the meaning of “emergency.” The officers do not have to show with certainty that a true emergency—or “true necessity”—existed. Instead, they must show that their belief that an emergency existed was based on specific indicators that people were actually in peril, not on general assumptions about crime scenes that may or may not apply to the case.

According to the State, the situation the officers faced at the Gibson trailer justified an emergency entry. They had responded to a 911 call from a woman inside a home; had arrived at the home to see a woman emerge, half-dressed and wounded, from the door; and could not be certain whether all persons involved were accounted for. The woman’s statement that the trailer was empty was not reliable because she was upset and uncooperative, and in the officer’s experience, similar statements at the scene of domestic violence incidents are often false.

According to Gibson, there was no reasonable basis for the officers to believe that an emergency existed inside the trailer when they conducted their search. After both Gibson and the woman victim were out of the trailer and in police custody, there were no sounds coming from the trailer and no other evidence that others were inside. Moreover, the woman told the officers no one else was inside. The officers’ assumption that an emergency existed was based on speculation only, not a reasonable belief, and does not satisfy the requirements for the “emergency aid” exception to the warrant requirement.

QUESTIONS FOR STUDENTS TO CONSIDER

1. In this case, the parties focus their arguments less on the facts themselves than on the governing legal standards, and how the facts should be interpreted in light of these standards. In your words, describe the legal standard the State asks the court to adopt. Also in your words, describe the legal standard Gibson asks the court to adopt. Which standard do you think the Alaska Supreme Court should adopt, and why? Identify the undisputed facts in this case. Analyzing these facts under the standard you believe the

⁴ *Gallmeyer v. State* at 842.

court should adopt, would the entry into Gibson's trailer be legal or illegal? Explain.

2. Are there disputed facts in the *Gibson* case that bear on the validity of the officer's initial entry into the trailer? If so, please list and describe. How might these affect the outcome?
3. Read the U.S. and Alaska constitutional provisions about searches and seizures. Why do you believe interpretations of these provisions have placed such high importance on the privacy of the home?
4. Police officers are allowed to enter a residence without a warrant if they reasonably believe there is an emergency inside. What are the advantages of allowing them this authority? What are the disadvantages?