State v. Huddy and the Community Caretaking Exception

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Categories : Search and Seizure, Uncategorized

Tagged as : community caretaking, fourth amendment, residential search, state v. huddy, state v. smathers, warrant exceptions

Date : August 15, 2017

Huddy, ___N.C. App. ___, 799 S.E.2d 650 (April 18, 2017) was decided earlier this year and reversed the trial court's denial of a motion to suppress. A unanimous Court of Appeals found that the search of the defendant's home was not justified under either the knock and talk doctrine or the community caretaking exception to the warrant requirement. The knock and talk portion of the opinion is interesting (indeed, the concurring opinion is devoted solely to that topic) and invalidates the search on those grounds, but I wanted to focus on the community caretaking aspect of the opinion. Jeff previously blogged about the community caretaking exception to the warrant requirement here. *Huddy* doesn't answer all of the questions raised in that post about the exception, but the opinion sheds some light on its scope and shows the balancing test for the exception in practice.

Facts. At 11am, an officer was patrolling an area that he believed was at risk of residential break-ins. While driving past the defendant's home, he noticed that the doors of a car parked in the driveway were open. He also noticed that the home was surrounded by trees, which in his experience made it a target for break-ins. The officer drove down the 150-yard driveway to examine the car and ran its tags, which came back with an address different from the residence. The officer approached the front door, which looked unused and did not seem to be the primary entrance to the home. He did not knock on the front door but instead "cleared" the sides of the house, examining it further for signs of a break-in (there were none). The officer then opened a closed gate to enter the fenced back yard and approached the screened-in back porch, where he smelled marijuana. He knocked on the back door, and the defendant answered, affirming that he lived there and the car belonged to him. The officer then obtained a search warrant for the residence based on the odor of marijuana and found marijuana inside. The trial court denied a motion to suppress, finding that the entry by the officer into the back yard was justified by either the knock and talk doctrine or community caretaking exception. The defendant was ultimately convicted of possession with intent to sell or deliver marijuana.

Appeal. On appeal, the Court of Appeals sided with the defendant, reversing the denial of the motion and vacating the defendant's conviction. The court started by recognizing that Fourth Amendment protections are strongest when it comes to a home, including its curtilage. "Law enforcement ordinarily cannot enter the curtilage of one's home without either a warrant or probable cause and the existence of exigent circumstances that justify the warrantless intrusion." *Huddy* at 654. The court identified the four factors of the balancing test for the community caretaking exception, which weighs the public caretaking interest against the privacy interest of the individual. Relying on *State v. Smathers,* 232 N.C. App. 120 (2014), which recognized the community caretaking exception in North Carolina and applied it to a vehicle stop, the court found that those factors are: "(1) the degree of the public interest and the exigency of the situation; (2) the attendant circumstances surrounding the seizure, including time, location, the degree of overt authority and force displayed; (3) whether an automobile is involved; and (4) the availability, feasibility, and effectiveness of alternatives to the type of intrusion actually accomplished." *Id.* at 655. Under *Smathers,* the State has the burden of proving that the exception applies, including that the balancing test favors application of the exception.

Finding that the community caretaker exception has never been extended to a residential search in North Carolina, the court in *Huddy* held that it did not apply to this search of the defendant's home. The only sign of an emergency was the car with its doors open, and the officer had alternatives to entering the fenced-in back yard—he could have actually knocked on the front door, called out from the front door, or waited and observed the car. The court found that under

the totality of the circumstances, these circumstances failed to meet the *Smathers* test and did not qualify as valid community caretaking. The evidence therefore should have been suppressed.

The court did not seem to think this case was close. The court weighed heavily that this case occurred at a residence, opening their analysis with a recognition of the special status of the home. Further, the emergency nature of the circumstances was not apparent to the court. "This situation is unlike one in which the facts point *unquestionably* to some public emergency, such as a door that has been broken or signs that someone inside the home needs emergency medical attention." *Id*. at 655-656 (emphasis added). So, while *Huddy* doesn't answer the question of whether or not North Carolina courts could extend the community caretaking exception to a residential search on different facts, it indicates our courts will be reluctant to apply it to homes without much stronger justification than was present in *Huddy*. *Smathers* directed "that this exception should be applied narrowly and carefully to mitigate the risk of abuse." *Smathers* at 129. *Huddy*, at least, seems to follow that directive.

Federal decisions. The U.S. Supreme Court has also never applied this exception to a residential search. Among the federal circuits, there is a split of authority on the applicability of the exception to homes. The 5th, 6th, and 8th Circuits allow the use of community caretaking to justify a residential search (at least under some circumstances), while the 3rd, 7th, 9th, and 10th Circuits do not. The Fourth Circuit hasn't directly weighed in, but an unpublished case acknowledges that the law is unclear on the point. *Phillips v. Peebles*, 7 Fed. Appx. 175 (4th Cir. 2007) (officer entitled to qualified immunity because scope of community caretaking exception in the context of a residential entry is not clearly established law). Another Fourth Circuit case, *U.S. v. Moss*, 963 F.2d 673 (4th Cir. 1992), declined to apply the community caretaking exception to the search of a rental cabin but did not announce a per se rule; there, as in *Huddy*, the court found that the circumstances did not justify a warrantless entry into the cabin. So, the question of if and how the doctrine might apply to the search of a home remains open in both North Carolina state courts and the Fourth Circuit, but we know that, if the exception is applicable, something more than the facts in *Huddy* will be required.