

U.S. Supreme Court Clarifies Warrantless Search Law

02.26.2014

Police officers may search a home without a warrant, even if one of the occupants objects to the search, as long as a co-occupant gives consent and the objecting occupant is no longer at the premises due to a lawful detention or arrest, the United States Supreme Court has ruled. In *Fernandez v. California*, 571 U.S. ____ (2014), the Court clarified an open issue in the law regarding warrantless searches.

The issue in *Fernandez* was whether evidence obtained during a search of a residence should be suppressed because one of the occupants objected to the search before he was arrested and removed from the scene. Previously, the Court had determined that a warrantless search is permissible when the sole occupant of a dwelling consents. The Court also previously held that a warrantless search is not permissible when one of the occupants is physically present at the scene and objects to the search. In *Fernandez*, the Court addressed the situation when the objecting occupant is no longer at the premises because of a lawful arrest or detention. The case confirms that police officers may conduct a warrantless search based upon a co-occupant's consent.

For advice regarding *Fernandez v. California* or the law regarding police searches of premises, please contact Jennifer Petrussis at jpetrussis@rwglaw.com or any of the members of the Firm's Police Practices Group.