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Presence of pit bull doesn't justify 'no knock' warrant in Mass.

Lawyers USA Staff

The presence of a pit bull in a house does not provide probable cause for issuance of a "no knock" search warrant, the Massachusetts Court of Appeals has ruled.

The police received information from an informant that the defendant had stolen property in his home and dispensed narcotics there. They also learned that he had two dogs, including one pit bull. Based on that information, they sought and obtained a no-knock search warrant on the grounds that the pit bull could alert occupants to the presence of officers, heighten danger to them and prompt the destruction of narcotics and evidence.

When the police executed the warrant, they found stolen property along with cocaine, heroin and packaging materials associated with distribution of illegal drugs.

The defendant was charged with the receipt of stolen property and various drug offenses. He moved to suppress the evidence against him, arguing that the affidavit failed to justify a no-knock warrant.

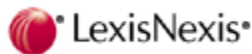
The court agreed.

"While we agree with the Commonwealth that a pit bull may, under the appropriate circumstances, pose a serious enough threat to an officer's safety to justify a no-knock warrant, no such circumstances were present here," the court said.

"[T]he Commonwealth has not provided us with any authority that would permit a conclusion that the presence of a pit bull, standing alone, is a sufficient basis to dispense with the knock and announce rule. Cases upholding no-knock warrants involving pit bulls have typically addressed unique circumstances, such as the known violence of a particular dog. The relevant inquiry concerns the temperament and purpose of the particular dog, not the breed. "

Commonwealth v. Santiago (Lawyers USA No. 9938517) Massachusetts Court of Appeals No. 06-P-1144. Oct. 17, 2007.

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