

NEWS

Was a 'no-knock' warrant justified to search Breonna Taylor's home? Several experts say no

Andrew Wolfson Louisville Courier Journal

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LOUISVILLE, Ky. — A national authority on search and seizure law says the no-knock warrant that Louisville police obtained for Breonna Taylor's apartment should not have been issued because there was no evidence justifying it in that particular case.

The U.S. Supreme Court has said judges may allow police to search without knocking when they have a reasonable suspicion that under the "particular circumstances" of the case, the targets could destroy evidence.

The detective who obtained the no-knock warrant for Taylor's home March 13 said that "these drug traffickers have a history of attempting to destroy evidence, have cameras on the location that compromise detectives once an approach to the dwelling is made, and have a history of fleeing from law enforcement."

But Professor Christopher Slobogin, director of Vanderbilt University's Criminal Justice Program, said "unless the police had reason to believe this particular house had cameras, and explained that reason to the judge, a no-knock warrant would be improper."

"Otherwise," he said, "police would never need to knock and announce for any search related to drug dealing, with consequences like the one we have in this case."

Breonna Taylor attorneys: LMPD supplied 'false information' on 'no-knock' warrant

Added Brian Gallini, a law professor at University of Arkansas who has written about the Fourth Amendment: "If it was appropriate here, then every routine drug transaction would justify grounds for no-knock."

Taylor's apartment did not have cameras, nor were drugs found during the search.

Taylor was shot and killed by police after her boyfriend, Kenneth Taylor, thinking they were being robbed, fired one shot inside the apartment at 3003 Springfield Drive.

The Louisville Metro Police Department said they knocked first and introduced themselves — despite having a no-knock warrant — but witnesses have disputed that.

Jefferson Circuit Judge Mary Shaw signed the search warrant but has declined to comment.

Lexington attorney Mark Wohlander, a former FBI agent, federal prosecutor and director of a narcotics task force, said the “boilerplate” language cited by Louisville Metro Police Detective Joshua Jaynes did not justify a no-knock search.

“I don’t know how this ever cleared a supervisor’s desk,” Wohlander said in an interview.

Frankfort criminal defense attorney J. Guthrie True agreed that police needed “more specifics” on the subjects for a no-knock warrant or “otherwise you could get a no-knock in any drug case.”

Other lawyers say search warrant seemed reasonable

But two Louisville defense attorneys — both former prosecutors — said they think Shaw’s issuance of the no-knock warrant was permissible.

Brian Butler said that no-knock are given based on “probable cause,” which he described as very low standard requiring a minimum of evidence.

Kent Wicker said courts have generally upheld issuing such warrants based on allegations of what “drug dealers do in general.”

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Butler said Shaw may have considered that serving drug trafficking warrants are inherently dangerous and that cameras could give away the positions of police before they entered.

The lawyers also sharply differed on whether there was cause to search Taylor’s South End home at all.

Detective Jaynes cited four reasons to justify searching the residence as well as the persons of Jamarcus Glover and Adrian Walker, who were the targets of an ongoing drug

investigation.

Jaynes said about two months earlier, Glover was seen leaving the apartment with a “suspected USPS package” and then driving it to a “known drug house.”

The detective also said a postal inspector told them that Glover had previously received packages at Taylor’s address, that he had previously given out the address as his own, and that Taylor's car had been spotted in front of a drug house Glover used.

But Wohlander said Jaynes’ suggestion that any of the packages contained drugs was “mere speculation” and that even if they did, that evidence was “stale” because it was based on old information.

True also said probable cause for the warrant was “iffy,” for the same reason.

Jaynes' assertion about the postal inspector was undercut Friday when WRDB reported that Louisville postal inspector Tony Gooden said in an interview that there were "no packages of interest" from Glover going to Taylor's address.

But Butler and Wicker said little is required to get a search warrant — only that police have a reasonable suspicion they will find evidence they are looking for.

Butler said the facts tying Glover to Taylor’s address and receiving packages there was enough.

Wicker noted that the question was whether evidence would be located there, not whether Taylor was involved in criminal conduct.

Wicker said that while the factors cited in Jaynes’ affidavit were “certainly not overwhelming, I think the warrant was properly issued and would likely withstand a legal challenge.”

Wohlander, a former assistant U.S. attorney in the Eastern District of Kentucky, said another factor should have dictated against a no-knock warrant — the fact the search was planned at night.

The danger of nighttime searches

He said nighttime searches should be authorized in very limited circumstances because they are so dangerous and intrusive.

In 2018, the 6th U.S. Court of Appeals said “it is difficult to imagine a more severe invasion of privacy than the nighttime intrusion into a private home.”

A court panel refused to dismiss a suit filed by a family in Highland Park, Michigan, who claimed their civil rights were violated when 13 SWAT team members blew open their door at 4 a.m. with a shotgun and didn't knock or announce they were police.

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The officers were looking for drugs and a "dangerous Russian" who hadn't lived at the address for more than a year. Neither was found.

Like Taylor and her boyfriend, the family members were in bed at the time.

Writing for the court, Judge Eugene Siler of Kentucky said that the failure of police to knock and announce, given the time of day and absent special circumstances, “was clearly unconstitutional.”

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