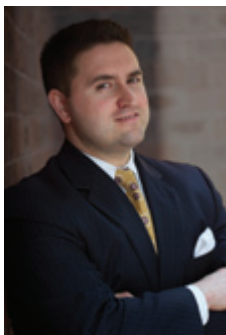


Drugs Found In Modern Day “Animal House” Suppressed By New Jersey Supreme Court

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In *State of New Jersey v. Derek J. Kaltner*, the Supreme Court held that a trial court correctly suppressed (“threw out”) drug evidence found in a bedroom during a warrantless search of a residence by police officers who were responding to noise complaints.

Picture your favorite party scene from a movie (or one that you have attended); music is blaring, people dancing, drinking (soda) etc. etc. Then, as the result of a noise complaint, the police (the fuzz, cops, po po) show up and ask “who lives here?” And, of course, like any partygoer from the movies, no one responds...

So, the police canvassed the residence to identify and locate the residents in order to clear out the party, abate the noise, and ensure that no individual was in need of medical assistance. Like the partygoers on the first floor, their fellow mates on the second floor disclaim being a resident—so, the police continue to search for someone, anyone, who resides at the Animal House. In their pursuit of a resident, the police make their way to the third floor of the residence, and, there, from the hallway, one of the officers observes “a prescription pill bottle, empty plastic bags, and a black digital scale covered with white powder residue” in the bedroom of Derek Kaltner (who, by the way, wasn’t at the party—he was at his parent’s house in Rochelle Park).

The State (the prosecution) argued that the search of the upper-floors of the residence were a function of the police's "community caretaking function" for a nuisance abatement (loud noise). That is, they needed to search the entire residence to address the noise complaint. Relying on the Appellate Division decision of Judge Parrillo, the Supreme Court rejected the State's contention.

Judge Parrillo had determined that, in assessing the "constitutional tolerance" of entry into and search of a home in response to a noise complaint, courts should employ an "objectively reasonable test," which balances the nature of the intrusion necessary to handle the perceived threat to the community caretaking concern, the seriousness of the underlying harm to be averted, and the relative importance of the community caretaking concern.

Applying this test, Judge Parrillo found that where police officers, responding in the early morning hours to a noise complaint, lawfully entered the home, but thereafter fanned out and searched the entire residence for someone in control, Constitutional boundaries were impermissibly crossed. Essentially, Judge Parrillo found that less intrusive options were available to abate the noise and no compelling need was presented.

Cutting through the legalese—when police respond to a residence as the result of a noise complaint call, they do not have carte blanche to search the entire residence.