

OUTSIDE THE DOOR, INSIDE THE FOURTH AMENDMENT

**People v. Perez
(4th Dist., Div. 3, G064219)**

The recently decided case of *People v. Perez* makes clear that officers typically need a warrant to arrest someone who is located within a residence. In *People v. Perez*, police responded to a 911 call reporting a man with a gun and identified the defendant as matching the description. Officers saw him enter an apartment and, without a warrant, stood outside the open doorway, pointed their guns, and ordered him to come out. After repeated commands, the defendant complied and was detained. Police later found a gun and drugs linked to him and charged him with firearm and drug offenses. The trial court denied his motion to suppress the evidence, and the defendant pleaded guilty to the charges.

The court was asked to decide whether police violated the Fourth Amendment by ordering the defendant out of a residence and detaining him without a warrant or probable cause.

The court held that the seizure violated the defendant's Fourth Amendment rights and was therefore unconstitutional. The court reasoned that a person is considered "seized" when they submit to police authority, which occurred while the defendant was still inside his residence. Because the defendant was effectively seized in a home, officers needed both probable cause and

a warrant (or exigent circumstances)—none of which were present. The court rejected the argument that this was merely a temporary detention based on reasonable suspicion, explaining that Terry stops do not apply inside a home. The court also rejected the idea that no warrant was required simply because officers remained outside; what mattered was that defendant was seized while inside the residence.

KEY TAKEAWAY

The Fourth Amendment protections are their strongest inside the home. Police generally cannot detain or arrest someone located inside their residence without a warrant and probable cause.

Stay Safe and Healthy!