



COMMUNITY CARETAKING VS. THE FOURTH AMENDMENT

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On August 25, 2017, the Sixth Circuit Court of Appeals decided *the United States v. Lewis*ⁱ, which serves as an excellent review of the community caretaking exception to the Fourth Amendment. The relevant facts of *Lewis*, taken directly from the case, are as follows:

On an evening in August 2014, local police officer Greg Turner responded to reports that a woman was intoxicated in a Wal-Mart in London, Kentucky. Once inside the Wal-Mart, Turner found the woman, later identified as Carol Lakes. Officer Turner noticed that Lakes's "balance was off, she was holding herself up by the buggy, she had trouble keeping her eyes open," and she was "nodding off." Once he got closer, Officer Turner further noticed that Lakes's speech was slurred, her eyes "red and glassy," and her mouth "real dry." Officer Turner concluded that Lakes was "clearly under the influence," approached her, and "asked her if she was all right." Lakes told Officer Turner that she had been taking pain pills due to some back trouble.

Officer Turner then asked Lakes if she was at the Wal-Mart by herself. Lakes answered that she was at Wal-Mart with her boyfriend—later identified as defendant Ronald Lewis—who was outside in his truck. Officer Turner responded: "Well, we'll go see if your boyfriend's all right, talk to him and he can drive you out of here. You can go home." Officer Turner also suggested to Lakes that he would have to arrest her if Lewis could not drive her home. At some point around then, another police officer, Rick Cloyd, arrived at the scene. Lakes told the officers that her boyfriend would in fact be able to drive her home, and led them outside to her boyfriend's truck so that they could "check to make sure that he was all right to drive."

The officers approached Lewis's four-door Chevy truck, but, because it was dark outside and the truck's windows were tinted, could not tell whether it was occupied. Officer Turner went around to the front-driver side of the truck, looked through the window, and saw Lewis asleep on the passenger side. Officer Cloyd and Lakes went around to the front-passenger side of the truck.

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There is some dispute as to what happened next. Officer Turner later testified that either Officer Cloyd or Lakes opened the front passenger-side door, next to which Lewis was sitting. Lewis testified that it was Officer Cloyd—and not his girlfriend Lakes—who opened the passenger-side door. For the purposes of this opinion, we adopt the district court's assumption that it was Officer Cloyd who opened the door.

When the door opened, the interior dome light went on, causing Lewis to "startle[]" and "d[o] a little jerk." This light enabled Officer Turner to see that Lewis had a clear plastic baggie on his lap. Lewis tossed the baggie over the truck's console onto the back floorboard.

Officer Turner suspected that the baggie contained marijuana. Accordingly, he shined his flashlight onto the baggie on the back floorboard, and observed that it contained "like a bluish color stuff in it," which he thought could be marijuana but might also be blue pills. Officer Turner then opened the truck door, inspected the bag more closely, and saw that it did in fact contain pills. Turner asked Lewis about the pills, and Lewis "stated that he didn't know nothing about them, and that's all he would say." Lewis appeared to be "under the influence" as well, based on his slurred speech. Lewis and Lake were then both arrested. The bag of pills was tested and found to contain 493 oxycodone 30 mg tablets and 5 pills of Xanax, the trade name for the controlled substance alprazolam. An additional four Xanax pills were found on Lewis's person.

Lewis was indicted on various charges related to the possession of oxycodone and alprazolam in violation of 18 U.S.C. §§ 841(a)(1), 846.ⁱⁱ

Lewis subsequently filed a motion to suppress and argued that the officer's violated the Fourth Amendment when they opened his door and then searched his vehicle without probable cause to believe it contained evidence of a crime. The district court denied the motion and held that the officers acted lawfully within the community caretaking function when they opened the truck door without probable cause. The district court also held that the police had probable cause to search the truck for the bag when the police observed Lewis throw the bag into the back seat of the truck to try to hide it, coupled with his signs of impairment and his girlfriend's impairment. Lewis pleaded guilty with the right to appeal. He then appealed the denial of the motion to suppress.

On appeal, Lewis only appealed the ruling that the officers did not violate the Fourth Amendment when they opened his truck door without probable cause. Thus, the issue on appeal was whether the community caretaking exception to the Fourth Amendment allowed the officers to open Lewis's truck door to wake him in order to check to see if he could drive his girlfriend home.

The Sixth Circuit noted that the community caretaking exception to the Fourth Amendment is applicable when the police are taking action that is unrelated to the investigation of a crime. Specifically, the court stated

The community-caretaking exception applies most clearly when the action of the police is "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute," *United States v. Brown*, 447 F. App'x 706, 709 (6th Cir. 2012) (quoting *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973)).ⁱⁱⁱ [emphasis added]

The court then examined the relevant facts of Lewis's case. First, the court observed that the police were called to assist an intoxicated woman who was falling asleep inside a Walmart. When they arrived and found the woman, they asked who could drive her home in an effort to avoid arresting the woman. Second, the court noted that there was no evidence that would indicate the police had an investigative motive for their actions. Third, the court noted that merely opening Lewis's truck door was a limited intrusion into his privacy. Further, they noted that it was his vehicle, rather than his residence, and vehicles by their transitory nature, afford more opportunity for non-criminal contact with police and "plain view." Fourth, the court noted that, although the police did not knock on his truck door before they opened it

[T]he community-caretaking exception is not limited to the least intrusive means of protecting the public." *United States v. Johnson*, 410 F.3d 137, 146 (4th Cir. 2005) (citing *Dombrowski*, 413 U.S. at 447).^{iv} [emphasis added]

Thus, the failure to knock did not make the officer's action of opening the truck door unreasonable under the Fourth Amendment, based on the community caretaking function.

The court then held

[T]he Fourth Amendment does not preclude the mere opening of the vehicle door in the context of these facts. The police here engaged in a function that was entirely divorced from a criminal investigation, such that the "community caretaker" exception to the Fourth Amendment applied. Therefore, because "[t]he standard of probable cause is peculiarly related to criminal investigations, not routine, noncriminal procedures," *South Dakota v. Opperman*, 428 U.S. 364, 370 n.5 (1976), **Officers Turner and Cloyd did not need a warrant or probable cause for their limited intrusion on Lewis's privacy.**^v

The court of appeals then affirmed the denial of the motion to suppress.

ⁱ No. 16-5181 (6th Cir. Decided August 25, 2017)

ⁱⁱ Id. at 2-3

ⁱⁱⁱ Id. at 5

^{iv} Id. at 6

^v Id. at 4