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For Immediate Release

Wayne County Appellate Chief Has Supreme Court Victory

The Wayne County Prosecutor's Office had a victory before the Supreme Court in the case of **Hudson v Michigan**, Case No. 04-1360, when the Court ruled 5 – 4 in favor of the prosecution. Timothy Baughman, Chief of Appeals, argued the case for the second time in early May 2006. The case was argued a second time because Justice Sandra Day O'Connor retired.

Wayne County Prosecutor's Office Appellate Chief Timothy Baughman said, "Our position was that there is a difference between the manner of entry and the fact of entry. The entry itself was commanded by the warrant, and the discovery of the drugs was found because of the search under the warrant. The **manner** of entry contained an error, in that the police failed to wait long enough. The purpose of waiting is not to let the people inside destroy the evidence, but to avoid needless destruction of property or injury. And so the discovery of the drugs had no relationship to the error--it was causally disconnected from it--and exclusion of it from trial would be to gratuitously harm the trial as a search for truth. If the interests served by knocking and announcing were harmed--the door was damaged or someone was injured--those could be remedied by civil suit--but neither occurred here. We would emphasize that this case does nothing to change police conduct. The police are still to announce and wait, unless to do so will lead to destruction of the evidence or danger to themselves or others, and will do so; this case is about what happens when a mistake is made. This is not a perfect world."

The issue involved the “knock and announce” rule. In this case the police were armed with a valid search warrant but failed to wait a reasonable time to enter the premises. The Court considered whether evidence should be suppressed where the prosecution could reasonably show it would have been inevitably discovered through a legal means.

Justice Antonin Scalia, writing for the majority wrote: “Whether that preliminary misstep had occurred or not, the police would have executed the warrant they had obtained, and would have discovered the gun and drugs inside the house.” The Supreme Court ruled that suppressing the evidence was too severe a penalty.

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