

\*\*\*\*\*

The “officially released” date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the “officially released” date appearing in the opinion. In no event will any such motions be accepted before the “officially released” date.

All opinions are subject to modification and technical correction prior to official publication in the Connecticut Reports and Connecticut Appellate Reports. In the event of discrepancies between the electronic version of an opinion and the print version appearing in the Connecticut Law Journal and subsequently in the Connecticut Reports or Connecticut Appellate Reports, the latest print version is to be considered authoritative.

The syllabus and procedural history accompanying the opinion as it appears on the Commission on Official Legal Publications Electronic Bulletin Board Service and in the Connecticut Law Journal and bound volumes of official reports are copyrighted by the Secretary of the State, State of Connecticut, and may not be reproduced and distributed without the express written permission of the Commission on Official Legal Publications, Judicial Branch, State of Connecticut.

\*\*\*\*\*

ROGERS, C. J., dissenting. I agree with Justice Eveleigh's conclusion that, under the totality of the circumstances, Officer Andrew Kelly made a permissible warrantless entry onto the property of the defendant, Gary Ryder. I write separately because I agree with the majority that the defendant's argument that the fourth amendment was implicated at the time Kelly stepped over the security gate onto the defendant's curtilage is not a newly raised claim and is properly before this court. A thorough review of the trial transcripts persuades me that the questions whether the defendant sought to secure the privacy of his curtilage, and whether Kelly had a reasonable belief that an emergency existed at the moment he entered thereon, were distinctly raised at trial, as required by Practice Book § 60-5.<sup>1</sup> Moreover, although I agree that it would have been preferable for the pro se defendant to have sought an articulation, I believe the trial court's findings, together with the undisputed facts in the record, provide an adequate basis for reviewing the curtilage issue. On the basis of that record, I join Justice Eveleigh in concluding that a reasonable police officer could have believed that an emergency existed when he entered the defendant's curtilage. Accordingly, I respectfully dissent.

---

<sup>1</sup> Because the state did not retain the defendant's motion to suppress, the defendant, through no fault of his own, is unable to demonstrate that he formally raised the curtilage issue with the trial court.