STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellant,	UNPUBLISHED June 18, 1999
v	No. 207062 St. Clair Circuit Court
RICHARD VINCENT HALL, Defendant-Appellee.	LC No. 97-001600 FH AFTER REMAND

Before: McDonald, P.J., and Jansen and Talbot, JJ.

PER CURIAM.

This case is before us after remand to the trial court for consideration of the issue whether suppression of the evidence was required under Fourth Amendment standards. In a written opinion and order, the trial court ruled that suppression of the evidence was warranted because the "method by which the officers gained entry to the motel room violated the 4th Amendment standard of reasonableness." We reverse.

This Court reviews for clear error a trial court's findings of fact in deciding a motion to suppress. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1997). We review de novo the trial court's ultimate decision regarding a motion to suppress, which is a mixed question of fact and law. *Id.*; *People v Goforth*, 222 Mich App 306, 310 n 4; 564 NW2d 526 (1997).

The trial court was concerned with the "possible use of a key card" to gain entry to the room and the "failure" of the officers to "sufficiently announce their purpose to alert those inside the room." We do not share the trial court's concerns. As noted in our previous opinion in this case, the United States Supreme Court has explained that "[i]n order to justify a "no-knock" entry, the police must have a reasonable suspicion that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence." *Richards v Wisconsin*, 520 US 385, 394; 117 S Ct 1416; 137 L Ed 2d 615 (1997). Here, the police officers had obtained a valid search warrant for the motel room, which required a showing of probable cause. In previously denying defendant's motion to quash, the court determined that the magistrate could reasonably conclude that there was a fair probability that contraband or evidence would be found in the hotel room.[1] Further, Detective Sergeant

Jim Jones, one of the police officers who took part in the execution of the warrant, testified at the evidentiary hearing that he had conducted surveillance from the motel room across the hall. According to Jones, the room had a bathroom immediately inside the hallway door. Jones suspected that defendant's room had a "similar" layout. Jones testified that, in executing the search warrant on defendant's room, the police officers were concerned about the ease with which the occupants of the room might be able to make it to the bathroom to destroy evidence.

Given the officers' knowledge regarding the likely layout of the room, we conclude that the officers possessed a reasonable suspicion that knocking and announcing their presence would inhibit the effective investigation of the crime by allowing the destruction of evidence. See *Richards*, *supra* at 394. This is so because if the officers had allowed time for the room's occupants to come to the door, there would necessarily have been enough time for the occupants to get into a bathroom next to the hallway door where the narcotics could have been quickly flushed down the toilet. Inasmuch as defendant was suspected of dealing crack cocaine, this was not a situation where "the drugs being searched for were of a type or in a location that made them impossible to destroy quickly." See *id.* at 393. Accordingly, even if the police made no announcement at all (which was not the exact finding of the trial court), their entry into the motel room would have been reasonable under Fourth Amendment standards. For this reason, we hold that the trial court erred in suppressing the evidence.

Reversed.

/s/ Gary R. McDonald
/s/ Michael J. Talbot

[1] The search warrant was based in part a confidential informant's tip that defendant was making deliveries of narcotics from the motel room.