IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	**No. 28042-0-III**
Respondent,	)	
	)	**Division Three**
v.	)	
VANCE EUGENE BROOKS,	)	
	)	**UNPUBLISHED OPINION**
Appellant.	)	

Sweeney, J. — "Community caretaking" is a well-established exception to the general requirement of a judicially authorized search warrant. Here, a police sweep of a house followed a 911 call for emergency assistance. First responders were caring for an unconscious man in the house when police arrived. Occupants of the house could not tell the police who made the 911 call and no one knew whether others were in the house. We conclude that the search of the house fell within the police officer's community caretaking function. We therefore agree with the court's refusal to suppress the drug evidence discovered during the search. And we affirm the conviction for possession of heroin.

FACTS

A 911 caller reported that a man in a house was unconscious and that he may have suffered a drug overdose. Police and medics responded and started treating him. He did not respond to commands. Vance Brooks and his mother were in the kitchen. Mr. Brooks was unbalanced and appeared intoxicated. Both denied making the 911 call. And no one knew whether others were in the house.

None of the first responders had swept the house. So Corporal Todd Dronen and a detective inspected two bedrooms located about 10 feet down the hall from the unconscious man. They saw drug paraphernalia and a small amount of heroin on top of a dresser in what turned out to be Mr. Brooks's bedroom.

The State charged Mr. Brooks with possession of heroin. Mr. Brooks moved to suppress the drug evidence, but the court denied his motion. He proceeded to a bench trial on stipulated facts. The court convicted him and entered judgment.

DISCUSSION

Mr. Brooks contends that the police had no right to sweep his home without a warrant. He argues that the 911 call was prompted by the unconscious man's need for assistance and there was no indication that there were problems in other parts of the home.

There is no dispute over the essential facts here. The only question before us turns on the constitutional propriety of the search. That is a question of law and so our review is de novo. *State v. Armenta*, 134 Wn.2d 1, 9, 948 P.2d 1280 (1997).

Both the federal and state constitutions prohibit unreasonable searches and seizures. U.S. Const. amend IV; Wash. Const. art. I, § 7. So a warrantless search of a home is presumed unconstitutional, and the State must show an exception to the warrant requirement. *State v. Potter*, 156 Wn.2d 835, 840, 132 P.3d 1089 (2006). Community caretaking is one such exception. That is because community caretaking by police is just that, caretaking, and not a criminal investigation. *State v. Acrey*, 110 Wn. App. 769, 773-74, 45 P.3d 553 (2002), *aff'd*, 148 Wn.2d 738, 64 P.3d 594 (2003). People look to police for a variety of services other than crime detection and prevention, "'including delivering emergency messages, giving directions, searching for lost children, assisting stranded motorists, and rendering first aid.'" *Acrey*, 110 Wn. App. at 773 (quoting *Hudson v. City of Wenatchee*, 94 Wn. App. 990, 996, 974 P.2d 342 (1999)).

The question here is whether the officers' community caretaking functions allowed the sweep of the house.

State v. Angelos is helpful. 86 Wn. App. 253, 936 P.2d 52 (1997). There, a woman called 911 and reported that she may have overdosed on drugs. *Id.* at 254. Police

arrived and overheard that a child was in the home. *Id.* at 254-55. They searched and found three children and, in the process, also found cocaine in a bathroom. *Id.* at 255.

The *Angelos* court concluded the search was proper because the officer was motivated by his need to render aid to the children. *Id.* at 258. The same result has followed in other similar situations. *See State v. Johnson*, 104 Wn. App. 409, 420, 16 P.3d 680 (2001) (emergency doctrine recognized when police entered home occupied by potential victim of domestic violence and, while searching home for other possible victims, located marijuana plants); *State v. Gibson*, 104 Wn. App. 792, 799, 17 P.3d 635 (2001) (emergency doctrine invoked when police entered home to secure safety of children left in presence of babysitter under the influence of marijuana, and police observed babysitter emptying marijuana from baggies); *State v. Sadler*, 147 Wn. App. 97, 124-25, 193 P.3d 1108 (2008) (emergency doctrine applied when police entered a home in search of a missing child and located evidence of sadomasochistic practices in plain view); *but see State v. Schroeder*, 109 Wn. App. 30, 45, 32 P.3d 1022 (2001) (scope of emergency doctrine exceeded when police responded to call of a suicide and the deceased was identified by a roommate, but police wanted the deceased's identifying documents, and in an attempt to find the documents police found methamphetamine in the pocket of a coat located in a closet). And the potential need to render aid and protect those rendering

aid prompted the sweep in this case.

"Once the community caretaking function applies, police officers may conduct a noncriminal investigation so long as it is necessary and strictly relevant to the community caretaking task at hand." *Acrey*, 110 Wn. App. at 774. That is what we have here. Both Mr. Brooks and his mother denied making the 911 call. No one could tell the officer who called 911. And, while it is true that the victim of the drug overdose was being managed by emergency personnel, it is also true that no one knew whether others were in the house and in need of assistance or control. For us, then, the sweep of the house's bedrooms was appropriate and easily within the officer's "community caretaking" responsibilities.

We affirm the conviction.

A majority of the panel has determined that this opinion will not be printed in the Washington Appellate Reports but it will be filed for public record pursuant to RCW 2.06.040.

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Sweeney, J.

WE CONCUR:

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Kulik, C.J.

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Korsmo, J.