



**LGIT'S ROLL CALL REPORTER
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Police may detain a person walking towards premises being searched pursuant to a valid search warrant.

QUESTION: Can a police officer detain a subject who approaches premises being searched pursuant to a valid search warrant?

ANSWER: Yes. The right to detain persons during the execution of a search and seizure warrant extends not only to those persons found inside the premises, but to those in close proximity, including those who are leaving or approaching the premises.

CASE: *Devin Jermaine Fields v. State of Maryland, Court of Special Appeals Decided February 2, 2012*

In *Michigan v. Summers* (U.S. Supreme Court 1981), the United States Supreme Court held that police officers executing a search warrant acted reasonably in temporarily detaining the occupant of the premises while the search was conducted. In the recent case decided by the Court of Special Appeals of Maryland, the issue was whether the *Michigan v. Summers* analysis applies when police officers detain a *non-occupant* who approaches the premises while the search is underway.

The facts showed that Detective John Keeney of the Baltimore County Police Department obtained a search warrant for a single family home located at 7402 Rockridge Road to search for evidence of illicit drug activity. Detective Keeney and another officer were assigned to do “pre-raid surveillance” of the house. From a vantage point about three blocks away, Detective Keeney had an unobstructed view of its front door. It was 8:00 p.m. and was still daylight. Detective Keeney spotted a subject later identified as Devin Jermaine Fields approach the house and go inside. A short time later, Fields left the house, spoke with another male subject, got into the driver’s seat of a black Infiniti and then left. Fields did not live at the house. The warrant was executed about thirty minutes later.

To execute the warrant, officers entered the house without incident through an unlocked screen door. Once inside, they secured everyone inside while Detective Keeney stood watch near the front door. At this point, the black Infiniti driven by Fields returned. Fields got out of the car, opened the gate to the front yard, and began walking towards the door. He was about halfway down the walkway when Detective Keeney and other officers approached him to ascertain his identity and ask him why he was there. Fields produced his identification, and, when asked if he had any weapons on him, he said no.

One of the other detectives, who was dressed in plainclothes, then asked Fields for consent to search him. Fields gave his consent. The search of Fields' person yielded a clear bag of cocaine in his left pocket and about \$600 in U.S. currency. Fields was placed under arrest. Fields was taken into the house, where he said that he had left earlier "to pick up cocaine" and that he had returned to "party" with the people in the house. Fields made these statements on his own, and not in response to any questions from the officers.

Fields was charged with possession of cocaine with intent to distribute. Prior to trial, he moved to suppress both the cocaine seized from his person and his statements to the police. He claimed that he was illegally detained by the officers and that he did not consent to the search of his person. Fields' motion was denied and he was convicted. He was sentenced to ten years' imprisonment without the possibility of parole. Fields appealed.

The Court of Special Appeals upheld Fields' conviction. It did so on grounds that *Michigan v. Summers* and other cases establish that, when executing a search warrant, police officers may reasonably detain persons found in and about the premises for reasons of safety and to secure the premises being searched. This includes occupants or non-occupants who approach the premises during the search. There is nothing "unreasonable" about such a detention.

NOTE: The detention in this case, just as the detention in *Michigan v. Summers*, did not depend on any "threat" actually perceived by the officers. Instead, the detentions were allowable because the risk of harm to police, occupants, and those persons in the immediate vicinity of the premises is minimized if the officers routinely exercise unquestioned command of the situation. This not only minimizes the risk of harm, it facilitates the orderly completion of the search. When detaining persons outside of the premises, the rule of thumb should be: Is it clear that the person is clearly unconnected with any criminal activity or is one who clearly presents no potential danger? If the answer is in the negative, the person should be detained, whether he or she is leaving, approaching, or just in the immediate vicinity of the premises. The principle in this case applies equally to search and arrest warrants as the need for safety and security during both is paramount. As to the search of Fields' person, take note that the authority to detain does not automatically provide the authority to "frisk" for weapons. A frisk for weapons under *Terry v. Ohio* still requires an articulated particularized suspicion that the suspect was armed and dangerous. In this case, Fields' consent to search negated the need for such articulated suspicion.

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