

STATE OF OREGON v. LARRY BRYON McMURPHY
291 Ore. 782 (1981)

Topic: Article 1 Section 9

Facts: The evidence admitted against McMURPHY was seized in a warrantless search of a home in which McMURPHY was present. McMURPHY was convicted and appealed. On appeal, the State asserted that McMURPHY had failed to show that the police's unlawful entry was invasion of constitutional rights personal to McMURPHY. The appellate court held that the State could not challenge McMURPHY's right to contest the search and seizure for the first time on appeal and refused to consider the State's argument.

Issue: Whether a warrantless entry into a home is unconstitutional?

Case History: The State sought review of an order from the Court of Appeals (Oregon), which reversed McMURPHY's convictions for drugs and weapons offenses on the grounds that evidence obtained by the police should have been suppressed at McMURPHY's trial because there were no exigent circumstances to justify the warrantless entry of a home. The Oregon Supreme Court affirmed the appellate court's decision that reversed McMURPHY's drug and weapons convictions.

Arguments: McMURPHY argued that the circuit court should have suppressed evidence obtained by police officers as a result of a warrantless entry into a home. The State argued that McMURPHY could not constitutionally challenge his conviction on appeal for the first time.

Holding: The constitutional guarantees forbid officers to "violate the right of the people to be secure in their persons, houses, papers, and effects" whether or not any crime has been committed, any evidence is seized, or any prosecution or other government action ensues. They are a shield for people's rights generally, not a subdivision of criminal law. An entry or search that violates these guarantees is unlawful regardless whether it affects some defendant in a criminal prosecution. Furthermore, it is well understood that where the motion to suppress challenges evidence seized as the result of a warrantless search, the burden of proving by a preponderance of the evidence the validity of the search is on the prosecution. Here, the prosecution failed to provide this evidence.