

## **09-1272 KENTUCKY V. KING**

DECISION BELOW: 302 S.W.3d 649

LOWER COURT CASE NUMBER: 2008-SC-000274-DG

### **QUESTION PRESENTED:**

Police officers entered an apartment building in hot pursuit of a person who sold crack cocaine to an undercover informant. They heard a door slam, but were not certain which of two apartments the trafficker fled into. A strong odor of marijuana emanated from one of the doors, which prompted the officers to believe the trafficker had fled into that apartment. The officers knocked on the door. They then heard noises which indicated that physical evidence was being destroyed. The officers entered the apartment and found large quantities of drugs. The Kentucky Supreme Court held that this evidence should have been suppressed, ruling that (1) the exigent circumstances exception to the warrant requirement did not apply because the officers created the exigency by knocking on the door, and (2) the hot pursuit exception to the warrant requirement did not apply because the suspect was not aware he was being pursued. The two questions presented are:

1. When does lawful police action impermissibly "create" exigent circumstances which preclude warrantless entry; and which of the five tests currently being used by the United States Courts of Appeals is proper to determine when impermissibly created exigent circumstances exist?
2. Does the hot pursuit exception to the warrant requirement apply only if the government can prove that the suspect was aware he was being pursued?

LIMITED TO QUESTION 1

CERT. GRANTED 9/28/2010