

COA Opinion: No reasonable expectation of privacy existed in a condemned house when officers reasonably visited and reasonably searched the home.

29. June 2011 By Kristina Araya

In *People v Antwine*, No. 297287, the Court of Appeals reversed the trial court's suppression of evidence seized from the home, and reversed the trial court's dismissal of the case. The Court of Appeals held that the defendant had no reasonable expectation of privacy that precluded police from searching his condemned house when officers reasonably visited the condemned house, and reasonably searched the home for illegal residents.

In *Antwine*, the police responded to a report that an unknown person was occupying a condemned home. The City of Hamtramck had condemned the home and posted a notification on the home that it was unlawful to occupy the building. When the police arrived, the defendant answered the door and allowed the officers to enter the front room of the house. The officers observed a scale and several zip lock baggies on the floor. The officers proceeded to search the remainder of the for other occupants. During this search, one of the officers observed a yellow baggie of what appeared to be crack cocaine. The defendant was arrested and charged with possession and intent to deliver cocaine. The trial court suppressed the evidence on the grounds that the owner of a condemned house retains a property right to possess it, and that the officers' search exceeded the scope of their reason for visiting the home.

The Court of Appeals disagreed, and held that the defendant did not have a reasonable expectation of privacy in this case. The Court explained that the overall expectation of privacy, rather than the existence of a property right, controls the Fourth Amendment analysis. Furthermore, the defendant's wrongful presence weighs against a reasonable expectation of privacy. The Court reasoned that the government has an ongoing interest in controlling condemned buildings, and in this case the officers reasonably visited the home in response to a report of an unlawful occupant. The officers acted reasonably when they secured the building and searched for additional occupants. Moreover, whether the officers were actually motivated to look for other individuals, or whether they had ulterior motives for the search, was irrelevant to the Fourth Amendment analysis. The search was objectively reasonable and society does not recognize the defendant's right to privacy in the areas searched under these circumstances.