



Training Bulletin: Legal Update

YOU CAN RUN, BUT YOU CAN'T HIDE... WAIT, MAYBE YOU CAN! Lange V. California

By: Johnene Stebbins

Suspect Lange drove past the California Highway Patrol listening to loud music with his windows down and repeatedly honking his horn. There were no cars in front of Lange, so the officer was unsure why Lange was honking his horn. The officer began to follow Lange, and finally lit the patrol car's overhead lights to signal Lange to pull over. At that point, Lange was only 100 feet or so from his home. Lange did not stop, and instead pulled into his driveway, into his attached garage and began to close the garage door. The officer approached the garage door, stuck his foot in front of the sensor causing the garage door to reopen, and entered the garage to speak to Lange. Lange claimed he did not see the officer. Lange displayed signs of intoxication. Lange failed the Field Sobriety Tests and a blood test later showed Lange to be three (3) times the legal blood-alcohol limit. Lange was charged with misdemeanor Driving Under the Influence and a noise infraction.

Lange moved to suppress all the evidence obtained after the officer entered his garage, which would encompass all the DUI evidence, arguing the warrantless entry violated the 4th Amendment. The prosecution argued that Lange committed a misdemeanor by failing to stop after the officer activated his overhead lights, and as such there was probable cause to arrest Lange for this misdemeanor offense and that exigent circumstances of "hot pursuit" justified the warrantless entry into Lange's garage. The prosecution and the California courts all relied on the US Supreme Court's precedence laid out in *United States v. Santana* where the US Supreme Court held that the "act of [a suspect] retreating into her house," could "not defeat an arrest" that had "been set in motion in a public place." *Lange v. California*, 141 S. Ct. 2011, 2019 (2021). Many states, including California in the Lange case, interpreted the *Santana* decision to support a rule permitting warrantless home entry when police officers (with probable cause) are pursuing any suspect—whether a felon or a misdemeanant.

The question presented to the US Supreme Court in *Lange v. California* then is whether the pursuit of a fleeing misdemeanor suspect *always* qualifies as an exigent circumstance. The US Supreme Court has decided in *Lange* that it does not. A great many misdemeanor pursuits involve exigencies-- to prevent imminent harms of violence, destruction of evidence, or escape from the home-- allowing warrantless entry. But whether a misdemeanor pursuit does must now be resolved on the particular facts of the case. In misdemeanor cases, flight does not always supply the exigency that this Court has demanded for a warrantless home entry.

Ultimately, the majority of the Supreme Court did not feel like much would change with requiring this additional case by case analysis as they believe that "when the totality of circumstances shows an emergency—a need to act before it is possible to get a warrant—the police may act without waiting. Those circumstances include the flight itself, but no evidence suggests that every case of misdemeanor flight creates such a need.

What does this mean for you?

To avoid motions to suppress, be sure to articulate in your reports all circumstances that led to begin pursuit-- high crime area, night-time, encountered individual before, etc. The court will look at the reasonableness of the decision you made under the totality of the circumstances. Important to note, the Court's opinion does not disturb the long-settled rule that pursuit of a fleeing *felon* is itself an exigent circumstance justifying warrantless entry into a home. See *United States v. Santana*, 427 U.S. 38 (1976). Also, Justice Thomas opined that the exclusionary rule should not apply if the warrantless entry during hot pursuit is deemed to have violated the 4th Amendment. He states that a criminal defendant should not be put in a better position than if he hadn't committed an additional crime -- fleeing the police.