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## High court tightens warrantless-search standards

**By Gina Holland**

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WASHINGTON — The Supreme Court ruled Wednesday that police cannot search a home when one resident invites them in but another tells them to go away, provoking a strong objection from the new chief justice about the possible impact on battered women.

The 5-3 decision put new limits on officers who want to search for evidence of a crime without obtaining a warrant first.

If one occupant tells them no, the search is unconstitutional, justices said.

Chief Justice John Roberts wrote his first dissent, predicting severe consequences for women who want police to come in but are overruled by abusive husbands.

The decision ended a trend of one-sided rulings by the court. About two-thirds of the 30 rulings under the leadership of Roberts have been unanimous, a high number on a court that has in the past been polarized along ideological lines.

The court's liberal members, joined by centrist Anthony M. Kennedy, said that an officer responding to a domestic-dispute call did not have the authority to enter and search the home of a small-town Georgia lawyer in 2001 even though the man's wife invited him in.

Janet Randolph called police to the home in Americus, Ga., and — over her husband's objections — led the officer to evidence used to charge Scott Randolph with cocaine possession. That charge has been on hold while courts considered whether the search was constitutional.

The state of Georgia had the backing of the Bush administration and 21 other states that argued cooperation with law officers should be encouraged.

The case turned on the Constitution's ban on unreasonable searches — with a twist. Justices looked at the rights of people who share their homes — a common situation in America where many households include extended families.

"The law acknowledges that although we might not expect our friends and family to admit the government into common areas, sharing space entails risk," Roberts wrote in a dissent that was almost as long as the main opinion.

Justice David H. Souter, the court's only unmarried member, wrote the majority opinion. "We have to admit we are drawing a fine line," he said.

### **Local angle**

Tucson Police Department legal advisers are preparing a staff briefing on the ruling, an official said Wednesday, but the decision isn't likely to affect local cases.

The law wasn't clear before, but TPD detectives typically get a search warrant if they have one party's consent and a "no" from the other, said Lt. Vicki Reza. It's the safer route to avoid challenges during prosecution, she said.

It is TPD's policy to get consent in writing, and some detectives audio-record the consent, too, she said.

Domestic-violence investigations also won't be affected because having a victim in harm's way is an exigent circumstance — the exception to the search warrant rule, Reza said. It can take an hour or longer to receive a warrant from a judge, and officers sometimes need to check the welfare of a victim right away, she said.

The staff briefing will include examples for local officers on when the ruling will affect cases, Reza said.

### **— Becky Pallack**

Read the full opinion of the Supreme Court in the Georgia v. Randolph case at [www.azstarnet.com/randolph](http://www.azstarnet.com/randolph)

He said that because there was no evidence of wrongdoing, Janet Randolph's invitation to enter did not trump her husband's refusal to let police conduct a search.

"Assuming that both spouses are competent, neither one is a master possessing the power to override the other's constitutional right to deny entry to their castle," Justice John Paul Stevens wrote in a side opinion. Ruth Bader Ginsburg and Stephen Breyer sided with the majority.

In all, the eight members who participated in the case wrote six different opinions, swapping barbs. Conservative Justices Antonin Scalia and Clarence Thomas wrote separate dissents.

It was surprising, considering that the court in recent months has been harmonious on emotional issues including abortion limits, religious freedom and a protest of the military's "don't ask, don't tell" policy on gays.

Souter called Roberts' concerns about domestic violence a "red herring."

"This case has no bearing on the capacity of the police to protect domestic victims," Souter wrote. "The question whether the police might lawfully enter over objection in order to provide any protection that might be reasonable is easily answered yes."

Justice Samuel Alito did not participate in the case because he was not on the court when it was argued.

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