



Written by [Jack Kenny](#) on March 27, 2013

## High Court: Warrant Needed for Drug-Sniffing Dog at Door of Home

Police may not bring a drug-sniffing dog to the door of your home without a court-issued search warrant, the U.S. Supreme [decided](#) in a 5-4 ruling announced Tuesday.

In a decision that cut across the usual liberal-conservative lines, Justice Antonin Scalia wrote in the opinion of the court that police in Florida illegally conducted a search without a warrant when they led a drug-sniffing dog to the front door of a house where police suspected a resident was growing marijuana.



“A police officer not armed with a warrant may approach a home and knock” at the front door, Scalia wrote in the 10-page majority opinion. “But introducing a trained police dog to explore the area around the home in hopes of discovering incriminating evidence is something else,” he said. “There is no customary invitation to do that.”

The case, *Florida v. Jardines*, arose from a drug-sniffing search of the front porch and up to the front door of the residence of Joelis Jardines in the greater Miami area. Police suspected Jardines of growing large quantities of marijuana inside the house. When the dog, named Franky, gave an “alert,” understood to be a positive indication of the presence of marijuana inside, police used that and other evidence to obtain a search warrant. A raid, based on the warrant, was conducted and a quantity of marijuana confiscated.

The lawyer for Jardines argued for suppression of the evidence, claiming the drug-sniffing constituted an illegal search, making the subsequent warrant illegitimate. The trial court agreed and suppressed the evidence from the search. After a state appeals court reversed that decision, the appeal went to the Florida Supreme Court, which ruled that using a dog to sniff odors emerging from the interior of a private home is a search within the meaning of the Fourth Amendment and requires that police first obtain a warrant before leading the dog onto the property. The U.S. Supreme Court ruling Tuesday upheld the findings of both Florida’s high court and the trial court and disagreed with the state appeals court ruling.

The [Fourth Amendment](#) of the U.S. Constitution affirms the right of persons to be secure “in their persons, houses, papers and effects from unreasonable searches and seizures.” It also states that no warrant shall be issued except on probable cause and that the warrant must describe in particular the place to be searched and the person or object(s) to be seized. Fourth Amendment controversies over many years and decades have centered on either or both the questions of what constitutes a reasonable search and where and under what circumstances a person might have a reasonable expectation of privacy.

“When it comes to the Fourth Amendment, the home is first among equals,” Scalia wrote. “At the amendment’s very core stands the right of a man to retreat into his own home and there be free from



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unreasonable government intrusion.” That right would be “of little practical value if the state’s agents could stand in a home’s porch or side garden and trawl for evidence with impunity,” he argued. Despite the Florida appeals court ruling and the closeness of the vote on the federal Supreme Court, Scalia insisted the outcome was clear and easy to discern, according to “the basic approach [that] keeps easy cases easy — and by those lights, this is an easy case indeed.”

Yet dissenting Justice Samuel Alito, usually a Scalia ally, said the majority opinion actually departed from sound judicial tradition. Scalia was upholding a rule “nowhere to be found in the annals of Anglo-American jurisprudence,” Alito wrote.

“While the court claims that its reasoning has ancient and durable roots, its trespass rule is really a newly struck counterfeit,” wrote Alito, who argued that the police presence on the doorstep was not a trespass and that the resident of the home did not have a reasonable expectation of privacy in the odors emanating from the house. Joining in the dissent were Chief Justice John Roberts and Justices Anthony Kennedy and Stephen Breyer. Forming the majority with Scalia were Justices Clarence Thomas, Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan.



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