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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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UNITED STATES *v.* BANKS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 02–473. Argued October 15, 2003—Decided December 2, 2003

When federal and local law enforcement officers went to respondent Banks's apartment to execute a warrant to search for cocaine, they called out "police search warrant" and rapped on the front door hard enough to be heard by officers at the back door, waited for 15 to 20 seconds with no response, and then broke open the door. Banks was in the shower and testified that he heard nothing until the crash of the door. The District Court denied his motion to suppress the drugs and weapons found during the search, rejecting his argument that the officers waited an unreasonably short time before forcing entry in violation of both the Fourth Amendment and 18 U. S. C. §3109. Banks pleaded guilty, but reserved his right to challenge the search on appeal. In reversing and ordering the evidence suppressed, the Ninth Circuit found, using a four-part scheme for vetting knock-and-announce entries, that the instant entry had no exigent circumstances, making forced entry by destruction of property permissible only if there was an explicit refusal of admittance or a time lapse greater than the one here.

Held:

1. The officers' 15-to-20-second wait before forcible entry satisfied the Fourth Amendment. Pp. 4–11.

(a) The standards bearing on whether officers can legitimately enter after knocking are the same as those for requiring or dispensing with knock and announce altogether. This Court has fleshed out the notion of reasonable execution on a case-by-case basis, but has pointed out factual considerations of unusual, albeit not dispositive, significance. The obligation to knock and announce before entering gives way when officers have reasonable grounds to expect futility or to suspect that an exigency, such as evidence destruction, will arise

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instantly upon knocking. *Richards* v. *Wisconsin,* 520 U. S. 385, 394. Since most people keep their doors locked, a no-knock entry will normally do some damage, a fact too common to require a heightened justification when a reasonable suspicion of exigency already justifies an unwarned entry. *United States* v. *Ramirez,* 523 U. S. 65, 70–71. Pp. 4–6.

(b) This case turns on the exigency revealed by the circumstances known to the officers after they knocked and announced, which the Government contends was the risk of losing easily disposable evidence. After 15 to 20 seconds without a response, officers could fairly have suspected that Banks would flush away the cocaine if they remained reticent. Each of Banks's counterarguments—that he was in the shower and did not hear the officers, and that it might have taken him longer than 20 seconds to reach the door—rests on a mistake about the relevant enquiry. As to the first argument, the facts known to the police are what count in judging a reasonable waiting time, and there is no indication that they knew that Banks was in the shower and thus unaware of an impending search. As to the second, the crucial fact is not the time it would take Banks to reach the door but the time it would take him to destroy the cocaine. It is not unreasonable to think that someone could get in a position to destroy the drugs within 15 to 20 seconds. Once the exigency had matured, the officers were not bound to learn anything more or wait any longer before entering, even though the entry entailed some harm to the building. Pp. 6–9.

(c) This Court's emphasis on totality analysis leads it to reject the Government's position that the need to damage property should not be part of the analysis of whether the entry itself was reasonable and to disapprove of the Ninth Circuit's four-part vetting scheme. Pp. 10–11.

2. The entry here also satisfied 18 U. S. C. §3109, which permits entry by force "if, after notice of his authority and purpose, [an officer] is refused admittance." Because §3109 implicates the exceptions to the common law knock-and-announce requirement that inform the Fourth Amendment itself, §3109 is also subject to an exigent circumstances exception, which qualifies the requirement of refusal after notice, just as it qualifies the obligation to announce in the first place. Pp. 11–12.

282 F. 3d 699, reversed.

SOUTER, J., delivered the opinion for a unanimous Court.