

NMDPS - SEARCH WARRANT - CURTILAGE

After three controlled buys, Santa Fe police obtained a search warrant for a “residence and surrounding curtilage.” Curtilage is the enclosed space of grounds and buildings immediately surrounding a dwelling house. A person has an expectation of privacy in this space which means it needs to be included in a search warrant.

While executing the warrant, officers were surprised to see a detached guesthouse (where Defendant lived) in the backyard. A wall surrounded the residence and guesthouse. They saw Defendant leave the guesthouse and searched it. All drugs found were in the guesthouse.

Defendant’s father owned both the main house and guest house. He and his son had mutual access to each residence, but the son occupied the guesthouse as his residence. Two residences, separately occupied, located on the same property. One search warrant or two?

Under the state constitution, Court of Appeals held a separate and independent residence, although on the same property, cannot be part of the curtilage of the main residence since each residence has its own expectation of privacy. To search the guesthouse, another search warrant was required. Drugs suppressed; trafficking charges dismissed. State v. Hamilton (2012).

- - - ADA Elliott Guttman, Law Enforcement Academy



So you found drugs, I have an expectation of privacy, this is my house, my name is Fido.