

# The fourth amendment to the us constitution in arbitration practice

[Law](#)



## The Fourth Amendment To The US Constitution In Arbitrage Practice

The rule of law governing suppression of evidence seized pursuant to a search is the Fourth Amendment of the US Constitution that provides under the exclusionary rules that, " Evidence obtained through a violation of the Fourth Amendment is generally not admissible by the prosecution during the defendant's criminal trial" (Constitution). Lawful suppositions drawn from facts that are in error may lead to an invalidation of a suppression court.

A case in which the suppression of evidence seized in the effecting has been pleaded is Commonwealth v. DeMichel, 442pa, 553, 277 A. 2d 159 (1971). In this case, the police apprehended the appellant's premises and seized money, cocaine and female attire. The litigant and his son were charged with dissimilar wrongdoings. The litigant filed a motion to suppress the physical substantiation seized pursuant to the search as the police had violated the " knock and announce" rule. The court provided that, " Our scope or review in evaluating the trial court's refusal to suppress evidence is to determine whether the factual findings of the suppression court are supported by the record. Assuming that there is support in the record, we are bound by the facts as are found and we may reverse the suppression court only if the legal conclusions drawn from those facts are in error. Thus, if sufficient evidence is of record to support the suppression court's ruling and that court has not misapplied the law, we will not substitute our credibility determination for that of the suppression court judge."

There is sufficient proof in this matter showing that the permissible conclusions gotten from the particulars are in error. In addition, there is evidence that the police knocked the door once, shouted, waited for 15

seconds and then kicked the door open and searched the premises. There is sufficient proof that Clavel has hardship in hearing. There is sufficient evidence that Clavel was approaching to unlock the door when the police kicked it in. If the rule of law presented in DeMichel is followed, it appears that there is sufficient evidence to support that the facts available were found in error.

There is no Pennsylvania case law that contradicts DeMichel or establishes a different definition of facts found in error. A possible counterargument is that the police applied the knocked and announce rule before gaining forceful entrance into the premises. The time they took was, however, too short. There is no case law to support this position. It may be necessary to look for additional evidence that shows the police knocked and announced repetitively before forcing entrance. Look at the recommendations below.

#### Conclusion

The exclusionary rule under the Fourth Amendment of the United States Constitution prohibits admissibility of evidence by the prosecution during the defendant's criminal trial. The matter between Commonwealth v. Marinelli states that a law enforcement officer executing a search warrant shall, before entry, give, or make reasonable effort to give, notice of his identity, authority and purpose to any occupant of the premises specified in the warrant, unless exigent circumstances require his immediate forcible entry. The Fourth Amendment of the United States Constitution provides for the exclusionary clause. In Commonwealth v. DeMichel, the court affirmed the judgment of sentence. In our case, there is no evidence that there was repeated knocking and announcing. Therefore, it appears there is sufficient

proof that the evidence was obtained in error.

#### Recommendations

1. We need to determine whether the immediate forcible access was indispensable to ignore the exceptions of the knock and announce rule.
2. We need to conduct further investigations on whether Clavel had difficulty in hearing and whether he was going to open the door.

#### Works Cited

" The Pocket Constitution." 6 March 2011. U. S. Constitution Online. October 16, 2011.

Available at: .