

Mike

84-1160

PEMBAUR v. CINCINNATI

Argued 12/2/85

Only one no longer a party. Only  
the County is involved.

B.A. doubts that County Prosecutor  
has some authority over the Sheriff's  
Deputy Dispatch

The ~~prosecutor~~ <sup>sheriff</sup> is in a good  
spot by 3rd Deputy Sheriff's and  
County

C.A. said that at least in their  
jurisdiction, the Sheriff's  
of moment to arrest in  
created a separate jurisdiction  
that justified arrest.

- P.S. of C.A. & P.

I see B.A. is correct  
& as to testimony of Sheriff's

Mauler (Petr)

City is no longer a party. Only  
the County is involved.

BRW doubts that County Prosecutor  
has "line authority" over the Sheriff's  
& his Deputies.

The ~~warrantless~~ <sup>warrantless</sup> entry was a joint-  
effort by ~~SA~~ Deputy Sheriffs and City  
Police

CAG said that at time of this  
warrantless entry, the existence of  
of warrant to arrest (as here)  
created "exigent circumstances"  
that justified warrantless entry  
- 15 of CAG's op.

See BRW's comments on this Q,  
& as to testimony of the Prosecutor

Friedmann (Asst. prosecutor of County)

Remember this suit is against County Commission - not the prosecutor

Prosecutor does not have legal authority over Sheriffs. Duty ~~is that~~ of Prosecutor is to give legal advice

Responding to B R W, Friedmann acted according to Ohio law at the time. Friedmann then agreed that Prosecutor acted in ~~accord~~ accord with Ohio law at the time. See p 5a of CA 6's op.

In light of ~~our~~ our op. in Seagold, Ohio law was mistaken. Seagold v. U.S. 451 U.S. 204 (1981)

(Copies below have treated copies as an arrest warrant)

~~Nothing in record~~

Nothing in record that Prosecutor had ever advised "break-in" except in this case

Prosecutor was not a "policy making" officer ~~with respect~~ w/respect to ~~decisions~~ decisions in this case. Two judges ~~issued~~ issued the copies, & the Sheriffs were not subject to authority of Prosecutor. They could have acted w/o asking for legal advice.

Client is free <sup>not</sup> to follow advice of atty - public or private

→  
~~Discuss~~  
Discuss with my clerk.