

SOME THOUGHTS ON HUDSON V. MICHIGAN

I saw my friend Dave Moran last night, who is the lawyer that argued Hudson v. Michigan, the recent case about knock and announce rules on searches. As you can imagine, he was pretty unhappy about losing the case. But he had a few more insights I'd like to share.

Anthony Kennedy changed his mind

Dave believes that, after he first argued the case in January, he had a 6-3 win. Now obviously, that's his gut feel, though Dave has argued several cases before these guys (and he has a well-known Jedi-like ability to predict disc flips in ultimate frisbee). Also, the case was not included with the original batch of cases announced to be reargued—it was announced later. So if Dave's right, then Kennedy somehow went from deciding in favor of the Fourth Amendment, to concurring against.