

STRAIGHTFORWARD CASE
EXPLANATIONS FOR
LAW ENFORCEMENT OFFICERS

ULTIMATE
SUPREME COURT
LEGAL REFERENCE

EDITED BY
BLUE TO GOLD LAW ENFORCEMENT
TRAINING LLC



Ultimate Supreme Court Legal Reference

STRAIGHTFORWARD CASE EXPLANATIONS
FOR LAW ENFORCEMENT

Blue to Gold Law Enforcement Training, LLC
Spokane, Washington

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I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

GENERALLY

Olmstead v. United States

Facts

The defendant was the leading figure in a major conspiracy. The government, observing that the defendant appeared to conduct some of his illegal business through the means of a telephone, tapped the telephone to his home and office. In doing so, the officers refrained from entering onto the defendant's property, using the public street near his home. These wiretaps generated much of the evidence against the defendant.

Issue

Whether the agents' actions amounted to a Fourth Amendment search?

Held

No. The Fourth Amendment protects "persons, houses papers and effects," none of which were implicated here.

Discussion

The Court held that, absent an intrusion onto the defendant's property, no search occurred. While this definition of search would be expanded in the Katz decision, at the time of the Olmstead ruling, no search occurred unless the government intruded into the defendant's person, home, papers or personal effects. The officers in this instance took special care not to intrude onto the defendant's property, so, under the only definition of a search at that time, the officers were permitted to listen to the defendant's telephone conversations.

Interestingly, the Court wrote "[C]ongress may of course protect the secrecy of telephone messages by making them, when intercepted, inadmissible in evidence in federal criminal trials, by direct legislation, and thus depart from the common law of evidence." Congress did so in Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

Citation

277 U.S. 438, 48 S. Ct. 564 (1928)

GENERALLY

Katz v. United States

Facts

FBI agents overheard conversations of the defendant by attaching an electronic listening and recording device to the outside of a public telephone booth from which he had placed his calls. The defendant was charged with transmitting wagering information out of state. At the trial, the court permitted the government to introduce evidence of the defendant's end of telephone conversations.

Issue

Whether the agents' actions amounted to a Fourth Amendment search?

Held

Yes. The agents conducted a Fourth Amendment search.

Discussion

The Court held that a "search" takes place whenever the government intrudes on a reasonable expectation of privacy. The Court concluded that the defendant's expectation of privacy was reasonable if he had taken measures to secure his privacy and the defendant's expectation of privacy met community standards.

What a person seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected under the Fourth Amendment. A person in a telephone booth may rely upon the protection of the Fourth Amendment, and is entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world.

Once the defendant established he met both prongs, any government intrusion into these areas must meet Fourth Amendment standards. The Fourth Amendment demands that all searches be reasonable. Searches conducted without a warrant are presumed to be unreasonable, except for some limited well-delineated exceptions. In this case, the agents did not have a warrant or valid exception.

Citation

389 U.S. 347, 88 S. Ct. 507 (1967)

GENERALLY

United States v. Jones

Facts

The government attached a global positioning device (GPS) to the defendant's vehicle as it was parked on a public parking lot. The defendant was the exclusive driver of this vehicle. The government learned of the travel patterns of the defendant for the next 28 days. Some of this information led to his indictment for drug trafficking.

Issue

Whether the government's attachment of the GPS to the defendant's vehicle was a "search?"

Held

Yes. A Fourth Amendment "search" occurs when the government trespasses on a person, house, paper or effect for the purpose of gathering information.

Discussion

The Court recognized that the "Fourth Amendment provides in relevant part that '[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.' It is beyond dispute that a vehicle is an 'effect' as that term is used in the Amendment." "The Government physically occupied private property for the purpose of obtaining information. We have no doubt that such a physical intrusion would have been considered a 'search' within the meaning of the Fourth Amendment when it was adopted." This definition of a "search" [government trespass on "persons, houses, papers and effects" for the purpose of obtaining information] is considered a supplement to and not a replacement of the well-recognized formula of the Katz case [government intrusion on a reasonable expectation of privacy].

Citation

565 U.S. 400, 132 S. Ct. 945 (2012)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

APPLIES TO GOVERNMENT ACTIVITIES ONLY

New Jersey v. T.L.O

Facts

The defendant, a fourteen-year-old student, was found smoking cigarettes in a public high school bathroom. She was taken to the vice-principal's office. He asked the defendant to come into his private office and demanded to see her purse. Opening the purse, he found a pack of cigarettes. As he reached into the purse for the cigarettes, the vice-principal also noticed a package of cigarette rolling papers. Suspecting that a closer examination of the purse might yield further evidence of drug use, the vice-principal thoroughly searched it. He found several pieces of evidence that implicated the defendant in marijuana dealing.

Issue

Whether the intrusion of the defendant's purse by a public high school administrator was a Fourth Amendment search?

Held

Yes. The Fourth Amendment regulates all government intrusions into reasonable expectations of privacy.

Discussion

The Constitution acts as a regulation of governmental actions. Every governmental intrusion into a person's reasonable expectation of privacy must meet Fourth Amendment scrutiny. Under ordinary circumstances, a search of a student by a teacher or other public school official will be justified at its inception when reasonable grounds exist for suspecting evidence that the student has violated either the law or the rules of the school. Such a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

Citation

469 U.S. 325, 105 S. Ct. 733 (1985)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

APPLIES TO GOVERNMENT ACTIVITIES ONLY

Coolidge v. New Hampshire

Facts

The defendant, a murder suspect, admitted to a theft. Other officers went to the defendant's house to corroborate his admission to the theft. The defendant was not home but his wife agreed to speak to the officers. The officers asked about any guns that might be in the house. The defendant's wife showed them four weapons that she offered to let them take. The officers took the weapons and several articles of clothing acquired in the same manner. One gun was later determined to be the murder weapon.

Issue

Whether the officers obtained the murder weapon and the clothing through an illegal search?

Held

No. The officers obtained this evidence through private actions.

Discussion

The Fourth Amendment controls governmental actions. The Fourth Amendment was not implicated when the government obtained the guns and clothing from the defendant's wife. The government exerted no effort to coerce or dominate her, and was not obligated to refuse her offer to take the guns. In making these and other items available to the government, she was not acting as an instrument or agent of the government. The items were secured through private actions.

Citation

403 U.S. 443, 91 S. Ct. 2022 (1971)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

APPLIES TO GOVERNMENT ACTIVITIES ONLY

Gouled v. United States

Facts

Gouled was involved in a conspiracy to commit mail fraud against the United States. At the direction of the government, Cohen, a business acquaintance of Gouled, pretended to make a friendly visit to Gouled at his office. When Gouled stepped out, Cohen seized and carried away several documents that were later introduced against Gouled at trial.

Issue

Whether an agent of a government has to comply with the Fourth Amendment?

Held

Yes. The Fourth Amendment requires compliance by government agents.

Discussion

The secret taking, without force, from the premises of anyone by a representative of any branch of the Federal government is a search and seizure. It is immaterial that entrance to the premises was obtained by stealth or through social acquaintance, or in the guise of a business call.

Citation

255 U.S. 298, 41 S. Ct. 261 (1921)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

California v. Ciraolo

Facts

Officers received an anonymous telephone tip that the defendant was growing marijuana in his backyard. This area was enclosed by two fences, six and ten feet in height, and shielded from view at ground level. Officers trained in marijuana identification secured a private airplane, flew over the defendant's home at an altitude of 1,000 feet, and readily identified marijuana plants growing in his yard. A search warrant was issued based on this information.

Issue

Whether the naked-eye aerial observation of the defendant's backyard constituted a search?

Held

No. Areas within the curtilage may be observed from public areas.

Discussion

The Fourth Amendment's protection of the home and curtilage does not require law enforcement officers to shield their eyes when passing by a home on a public thoroughfare. Airways constitute a public thoroughfare. The government may use the public airways just as members of the public. While the fences were designed to conceal the plants at normal street level, they will not shield the plants from the elevated eyes of a citizen or a law enforcement officer.

Citation

476 U.S. 207, 106 S. Ct. 1809 (1986)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Dow Chemical Co. v. United States

Facts

The defendant operated a 2,000-acre chemical plant. The plant consisted of numerous covered buildings, with outdoor manufacturing equipment and piping conduits located between the buildings that were exposed to visual observation from the air. The defendant maintained an elaborate security system around the perimeter of the complex, barring ground-level public views of the area. When the defendant denied a request by the EPA for an on-site inspection of the plant, the EPA employed a commercial aerial photographer, using a standard precision aerial mapping camera, to take photographs of the facility from various altitudes, all of which were within lawful navigable airspace.

Issue

Whether this conduct was a Fourth Amendment search?

Held

No. The government can use the air space just as other members of the public.

Discussion

The EPA's aerial photograph of the defendant's plant complex from aircraft that was lawfully in public navigable airspace was not a search. Further, the open areas of an industrial plant complex are not analogous to the "curtilage" of a dwelling. The open areas of an industrial complex are more comparable to an "open field" in which an individual may not legitimately demand privacy.

Citation

476 U.S. 227, 106 S. Ct. 1819 (1986)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Florida v. Riley

Facts

The Sheriff's Office received an anonymous tip that the defendant was growing marijuana on his property. The defendant lived in a mobile home on five acres of rural property. A deputy saw a greenhouse behind the mobile home, but could not see inside as walls, trees and the mobile home blocked his view. However, the deputy could see that part of the greenhouse roof was missing. The deputy flew over the curtilage at 400 feet in a helicopter, and with his naked eye saw marijuana inside the greenhouse. A search warrant was obtained and executed, resulting in the discovery of marijuana.

Issue

Whether naked eye observations on a curtilage from 400 feet in a helicopter constitute a search?

Held

No. The government may use air space consistent with public use.

Discussion

The Supreme Court had previously approved flying a fixed wing aircraft at 1,000 feet over curtilage. The aircraft was in public airspace and complied with FAA regulations. Therefore, no reasonable expectation of privacy existed. The Court also approved flying over an industrial complex and taking photographs, as in *Dow Chemical Co. v. United States*.

In this case, the defendant had no reasonable expectation of privacy from the helicopter overflight. FAA regulations allow any helicopter to fly lower than fixed wing aircraft if its operation is conducted without hazard to persons or property on the ground.

Citation

488 U.S. 445, 109 S. Ct. 693 (1989)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

United States v. Chadwick

Facts

Railroad officials in San Diego observed Machado and Leary load a footlocker onto a train bound for Boston. Their suspicions were aroused when they noticed that the trunk was unusually heavy for its size, and that it was leaking talcum powder, a substance often used to mask the odor of marijuana or hashish. Machado fit a drug-courier profile. The railroad officials notified DEA in San Diego who in turn notified DEA in Boston.

In Boston, DEA agents did not have a search warrant nor an arrest warrant, but they did have a trained drug dog. The agents observed Machado and Leary as they claimed their baggage and the footlocker. The agents released the drug dog near the footlocker and he covertly alerted to the presence of a controlled substance. The defendant joined Machado and Leary and together they lifted the 200-pound footlocker into the trunk of a car. At that point, the officers arrested all three. A search incident to the arrests produced the keys to the footlocker. All three were removed from the scene. Agents followed with the defendant's car and the footlocker. Ninety minutes later the agents opened the footlocker, discovering a large amount of marijuana.

Issue

Whether the defendant can expect privacy in his trunk?

Held

Yes. The defendant's actions indicated he wanted to preserve his privacy in the trunk.

Discussion

By placing personal effects inside a double-locked footlocker, defendants manifested an expectation of privacy in the footlocker. Since the defendants' principle privacy interest in the locked footlocker was not in the container itself, but in its contents, seizure of the locker did not diminish their legitimate expectation that its contents would remain private. A footlocker is not open to public view and not subject to regular inspections. By placing personal effects inside a double-locked footlocker, the defendant manifested an expectation that the contents would remain free from public examination.

NOTE: This case was decided before *California v. Acevedo*. Today, if the officers could establish probable cause that the locker contained contraband, they could have opened it pursuant to the mobile conveyance doctrine.

Citation

433 U.S. 1, 97 S. Ct. 2476 (1977)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Illinois v. Andreas

Facts

A Customs inspector initiated a lawful border search and found marijuana concealed inside a table. The inspector informed the DEA of these facts. The next day, the agent put the table in a delivery van and drove it to the defendant's building. A police inspector met him there. Posing as deliverymen, the two men entered the apartment building and announced they had a package for the defendant.

At the defendant's request, the officers left the container in the hallway outside the defendant's apartment. The agent stationed himself to keep the container in sight and observed the defendant pull the container into his apartment. While the inspector left to secure a search warrant for the defendant's apartment, the agent maintained surveillance. The agent saw the defendant leave his apartment, walk to the end of the corridor, look out the window, and then return to the apartment. The agent remained in the building but did not keep the apartment door under constant surveillance.

Between thirty and forty minutes after the delivery the defendant reemerged from the apartment with the shipping container and was immediately arrested. At the station the officers reopened the container and seized the marijuana found inside the table. The search warrant had not yet been obtained.

Issue

Whether the Fourth Amendment requires a search warrant to reopen a container that had previously been lawfully opened?

Held

No. A reopening of a sealed container in which contraband drugs had been discovered in an earlier lawful border search is not a "search" within the Fourth Amendment where the reopening is made after a controlled delivery.

Discussion

When a common carrier or law enforcement officer discovers contraband in transit, the contraband could simply be destroyed. However, this would eliminate the possibility of prosecuting those responsible. Instead, the government may make a "controlled delivery" of the container to the person to whom it is addressed. As long as the initial discovery of the contraband is lawful, neither the shipper nor the addressee has any remaining expectation of privacy in the contents. Therefore, the government may, at the conclusion of the controlled delivery, seize the container and re-open it without procuring a warrant.

Normally, the government will not let the container out of their sight between the time they discover the contraband and the time it is delivered to the addressee and then seized. However, even if there is a brief lapse in surveillance, this will not re-institute

the addressee's expectation of privacy. The relatively short break in surveillance made it substantially unlikely that the defendant had removed the table or placed new items inside the container while he was in his apartment. Therefore, the seizure and re-opening of the container was not a Fourth Amendment search as it violated no reasonable expectation of privacy.

Citation

463 U.S. 765, 103 S. Ct. 3319 (1983)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

United States v. Karo

Facts

The DEA learned through an informant the defendant had ordered fifty gallons of ether (commonly used to process cocaine). The government obtained a court order to install and monitor a beeper in one of the cans of ether. With the informant's consent, the DEA substituted their own can of ether, containing a beeper, for one of the cans of ether in the shipment.

The agents saw the defendant pick up the ether from the informant, followed him to his home, and determined by using the beeper that the ether was inside the residence. The ether was moved several other times. Finally, the ether was transported to a house rented by Horton, Harley and Steele. Using the beeper, agents determined that the can was inside the house, and obtained a search warrant for the house, based in part on information derived through the use of the beeper. The agents executed the warrant and seized cocaine.

Issues

1. Whether the installation of the beeper was lawful?
2. Whether the monitoring of the beeper inside the residences was a search?

Held

1. Yes. The defendant did not have a reasonable expectation of privacy in the container when the beeper was installed.
2. Yes. The defendant had a reasonable expectation of privacy inside the residence, which was intruded upon by monitoring the beeper while it was inside the residence.

Discussion

No Fourth Amendment right was infringed by the installation of the beeper. The consent of the informant to install the beeper was sufficient. The transfer of the beeper-laden can to the defendant was neither a search nor a seizure, since it conveyed no information that he wished to keep private, and did not interfere with anyone's possessory interest in a meaningful way. Whether the installation and transfer would have been a violation of the Fourth Amendment under a Jones analysis is unclear.

The monitoring of the beeper in a private residence, an area of reasonable expectation of privacy, is a search. As this search was conducted without a warrant, it violated the Fourth Amendment. The government, by the surreptitious use of a beeper, obtained information that it could not have obtained from outside the curtilage of the house.

However, the officers, by surveillance and other investigation, had sufficient facts to constitute probable cause. They could not use information derived from the beeper while it was located inside the residence.

Citation

468 U.S. 705, 104 S. Ct. 3296 (1984)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Cardwell v. Lewis

Facts

Officers went to the defendant's place of business to question him in connection with a murder investigation. While there, the officers saw the car they suspected might have been used in the murder. Several months later, the officers questioned the defendant again. They also obtained an arrest warrant. The defendant drove his car to the station for questioning and left his car in a commercial parking lot. The suspect was arrested and the car was towed to a police impound lot where a warrantless examination of its exterior was conducted the following day.

Issue

Whether the examination of an automobile's exterior is reasonable under the Fourth Amendment?

Held

Yes. The defendant had no reasonable expectation of privacy in the exterior of his automobile.

Discussion

Nothing from the interior of the car and no personal effects were searched or seized. The intrusion was limited to the exterior of the vehicle left in a public parking lot. No reasonable expectation of privacy is violated by the examination of an exposed tire or in the taking of exterior paint samples from a vehicle that had been parked in a public place. Further, the officers had probable cause to search the car. Where probable cause exists, a warrantless search of an auto is reasonable under the Fourth Amendment. See *Carroll v. United States*.

Citation

417 U.S. 583, 94 S. Ct. 2464 (1974)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Kyllo v. United States

Facts

Officers suspected the defendant of growing marijuana in his home. They used a thermal-imaging device to determine if the amount of heat emanating from his home was consistent with the high-intensity lamps typically used for indoor marijuana growth. The scan of the defendant's home took a few minutes and was performed from the passenger seat of an officer's vehicle. The scan showed that the house was warmer than neighboring homes. The officers obtained a search warrant, in part based on this information.

Issue

Whether the use of a thermal-imaging device to detect levels of heat is a search under the Fourth Amendment?

Held

Yes. Employing technology that is not used by the general public to obtain information about a home's interior that could not have been obtained without physical entry constitutes a search.

Discussion

The government argued that the scan only detected heat radiating from the home and that it did not detect "intimate details." The government also argued that the defendant had not shown an expectation of privacy because he made no attempts to conceal the heat escaping from his home. The Court held that any information of a home that cannot be obtained except through either physical entry or sophisticated technology not readily available to the public is considered "intimate details." In this case, the surveillance was a search and a warrant was needed to engage in the scan.

Citation

533 U.S. 27, 121 S. Ct. 2038 (2001)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Hoffa v. United States

Facts

The defendant, the President of Teamsters Union, was on trial for labor racketeering. During the trial, he occupied a three-room suite in a hotel. Several friends and fellow teamster officials were the defendant's constant companions during the trial. One companion was a teamster official and a government informant.

During the trial, the defendant told this companion/informant that he was attempting to bribe jurors to insure a hung jury, and made other incriminating statements. The companion/ informant reported these statements to the government. As the defendant predicted, the jury failed to reach a verdict in the case and a mistrial was declared. The government later tried the defendant for obstruction of justice.

Issue

Whether the presence of a government informant in the defendant's hotel room was a search?

Held

No. The defendant cannot reasonably expect privacy in conversations he openly engages in before a government informant, present by invitation of the defendant.

Discussion

The defendant has no reasonable expectation that his conversation will not be reported to the government. Where the informant was in the suite by invitation, and every conversation that he heard was either directed to him or knowingly carried on in his presence, the defendant assumes the risk that the person will maintain confidentiality. The Fourth Amendment does not protect a wrongdoer's misplaced belief that a person to whom he voluntarily confides his wrongdoing will not reveal it.

Citation

385 U.S. 293, 87 S. Ct. 408 (1966)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Minnesota v. Olson

Facts*

The defendant was suspected of driving a getaway car involved in a robbery and murder. Officers learned that the defendant was staying in a home occupied by two women. After receiving this information, the officers surrounded the home and telephoned the women, urging them to tell the defendant to come out. During this conversation, a male voice was heard saying “tell them I left.” One of the women relayed this message to the officers. There were no indications that the women were in danger or being held against their will by the defendant. Nonetheless, without either the consent of the homeowners or a warrant, the officers entered the home to arrest the defendant. The officers found the defendant hiding in a closet and arrested him. Shortly thereafter, the defendant made incriminating statements to government officers.

Issue

Whether the warrantless, non-consensual entry into the house where the defendant had been staying violated his Fourth Amendment rights?

Held

Yes. As an “overnight guest,” the defendant had a reasonable expectation of privacy in the house. The entry to arrest him, made without a warrant, consent, or exigent circumstances, was a violation of the Fourth Amendment.

Discussion

While the defendant in this case was not the legal owner of the home, he was an “overnight guest” there. This fact allowed him to create a reasonable expectation of privacy in the home. An overnight guest “seeks shelter in another’s home precisely because it provides him with privacy, a place where he and his possessions will not be disturbed by anyone but his host and those his host allows inside.”

No exigent circumstances existed that would excuse the officers’ warrantless entry into the home. While the crime was serious, the defendant was not considered to be the murderer, but only the getaway driver. The officers had previously recovered the murder weapon and there was no evidence that the two women inside the residence were in danger. The officers had the home surrounded. It was apparent that the defendant was not able to leave. If he had, he would have been arrested in a public place. For all of these reasons, exigent circumstances did not exist to enter the home. The defendant’s statement was suppressed as the fruit of his unlawful arrest.

* 495 U.S. 91, 110 S. Ct. 1684 (1990)
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I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Minnesota v. Carter

Facts

The defendant and the lessee of an apartment packaged cocaine in the apartment. A law enforcement officer observed this activity by looking through a drawn window blind. The defendant did not live in the apartment, he had never visited that apartment before and his visit only lasted a matter of hours. His singular purpose in being there was to package cocaine. The defendant was arrested for conspiracy to commit a controlled substance crime. He complained that the information that led to his arrest was the product of an unreasonable search.

Issue

Whether a visitor enjoys a reasonable expectation of privacy in a premises visited for commercial reasons?

Held

No. Commercial visitors do not obtain a reasonable expectation of privacy in a premises.

Discussion

The Supreme Court distinguished the defendant's presence in this apartment from the social, overnight guests' presence in *Minnesota v. Olson*. In *Olson*, the Court held that a guest staying overnight in another's home had a reasonable expectation of privacy. The defendant in *Carter* however, went to the apartment for a business transaction, limiting his presence to a matter of hours. He did not have a previous relationship with the lessee of the apartment, nor did he have a connection to the apartment similar to that of an overnight guest. While the apartment was a dwelling for the lessee, the property was equivalent to a commercial site to the defendant. Lacking a significant connection to the property, the defendant did not have standing to object to the search conducted on that premises.

Citation

525 U.S. 83, 119 S. Ct. 469 (1998)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

O'Connor v. Ortega

Facts

The defendant, a physician, was an employee of a state hospital. Hospital officials became concerned about possible improprieties in his conduct. Hospital officials entered his office while the defendant was on administrative leave pending the investigation. The officials entered the office to inventory and secure state property. They seized personal items from his desk and file cabinets. These items were later used in administrative proceedings resulting in his discharge.

Issues

1. Whether the defendant, a public employee, had a reasonable expectation of privacy in his office, desk, and file cabinet at his place of work?
 2. Whether a public employer must establish probable cause before searching an employee's reasonable expectation of privacy?
-

Held

1. Yes. It is possible for an employee to establish a reasonable expectation of privacy in a work place environment.
 2. It depends. When the employer's search is work-related, the search must be reasonable under the circumstances.
-

Discussion

The Court recognized that employees may develop a reasonable expectation of privacy in government workplaces. Justice Scalia stated “[c]onstitutional protection against unreasonable searches by the government does not disappear merely because the government has the right to make reasonable intrusions in its capacity as employer.” The operational realities of the workplace, however, may make some employees’ expectations of privacy unreasonable when an intrusion is by a supervisor rather than a law enforcement officer.

The Court concluded the defendant had a reasonable expectation of privacy in his office. Regardless of any legitimate right of access the hospital staff may have had to the office, the defendant had a reasonable expectation of privacy in his desk and file cabinets as he did not share these areas with any other employees.

A determination of reasonableness applicable to a search requires “balancing the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion.” In the case of searches conducted by a public employer, the court must balance the invasion of the employees’ legitimate expectations of privacy against the government’s need for supervision, control and the efficient operation of the workplace.

To ensure the efficient and proper operation of the agency, public employers must be given wide latitude to enter employee offices for work-related, non-investigatory reasons, as well as work-related employee misconduct. The Court held that public employer intrusions on the constitutionally protected privacy interests of employees for non-investigatory, work-related purposes, as well as for investigations of work-related misconduct, should be judged by the standard of reasonableness under all the circumstances.

Citation

480 U.S. 709, 107 S. Ct. 1492 (1987)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

City of Ontario v. Quon

Facts

The defendant was employed by City of Ontario. The city provided the defendant with a pager, capable of sending and receiving text messages, to assist with his duties. Each receiving employee was notified that the city “reserves the right to monitor and log all network activity including e-mail and Internet use, with or without notice. Users should have no expectation of privacy or confidentiality when using these resources.” The defendant signed a statement acknowledging that he understood this policy. Although the policy did not explicitly cover text messages, the city made clear to the employees that text messages were to be treated as e-mails. Over the next few months, the defendant exceeded his character limit three or four times. Each time he reimbursed the city the costs. His supervisor, who tired of collecting overages on behalf of the city, obtained the transcripts of the text usage to determine if the city needed to amend its service plan. He discovered the defendant was using the pager to pursue personal matters while on duty. The defendant was disciplined.

Issue

Whether the government’s intrusion into the contents of the pager transcripts was reasonable?

Held

Yes. Though the Court refused to address whether the employee had a reasonable expectation of privacy in the pager, it nonetheless found the government’s intrusion as reasonable.

Discussion

The Court hesitated to declare that the employee had a reasonable expectation of privacy in this instance. “The Court must proceed with care when considering the whole concept of privacy expectations in communications made on electronic equipment owned by a government employer. The judiciary risks error by elaborating too fully on the Fourth Amendment implications of emerging technology before its role in society has become clear.”

Assuming that the employee had a reasonable expectation of privacy, the Court still found the government’s intrusion as a reasonable workplace intrusion. Quoting O’Connor, the Court held that a search “conducted for a ‘noninvestigatory, work-related purpos[e]’ or for the ‘investigatio[n] of work-related misconduct,’” is reasonable if “it is ‘justified at its inception’ and if ‘the measures adopted are reasonably related to the objectives of the search and not excessively intrusive...’” The city’s “legitimate work-related rationale” was to determine whether the city’s contract was sufficient to meet the city’s needs. Its intrusion was limited in scope because “reviewing the

transcripts was reasonable because it was an efficient and expedient way to determine whether [the defendant's] overages were the result of work-related messaging or personal use.”

Citation

560 U.S. 746, 130 S. Ct. 2619 (2010)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Hudson v. Palmer

Facts

The defendant, a prison inmate, was subjected to a prison cell search, or “shakedown.” The officers discovered a ripped pillow case and charged the defendant with destruction of government property.

Issue

Whether a prison inmate has a reasonable expectation of privacy in a prison cell?

Held

No. Society is not willing to recognize that prisoners have a legal right to exclude the government from their cells.

Discussion

Prisoners are afforded only those rights not fundamentally inconsistent with imprisonment itself or incompatible with the objectives of incarceration (to be free from racial discrimination and cruel and unusual punishment, to petition for redress of grievances, certain First Amendment religious and speech protections, due process). However, imprisonment also entails a series of personal deprivations. One of those deprivations, rationally and logically, is the loss of personal privacy. The Court held that “society is not prepared to recognize as legitimate any subjective expectation of privacy that a prisoner might have in his prison cell and that, accordingly, the Fourth Amendment proscription against unreasonable searches does not apply within the confines of the prison cell.”

Citation

468 U.S. 517, 104 S. Ct. 3194 (1984)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Maryland v. Macon

Facts

An undercover officer entered an adult bookstore and purchased two magazines with a marked \$50 bill from the defendant. The officer left the store and met with two other officers waiting outside. After reviewing the magazines, they determined that the material was obscene and went into the store. The officers arrested the defendant and retrieved the \$50 bill from the register.

Issue

Whether the officers searched for and “seized” the two magazines under the definition of the Fourth Amendment?

Held

No. The defendant does not have a reasonable expectation of privacy in items offered for public sale nor a possessory interest in items sold.

Discussion

The Court held that “[A]bsent some action taken by government agents that can properly be classified as a “search” or a “seizure,” the Fourth Amendment rules designed to safeguard First Amendment freedoms do not apply.” The defendant does not have an expectation of privacy in areas where the public has been invited to peruse wares for sale. Therefore, the officer’s entry into the store and examining materials for sale cannot be considered a “search.”

Nor did the Court consider the purchase of the magazines a seizure (defined as a “meaningful interference with an individual’s possessory interests” in *United States v. Jacobsen*). The defendant “voluntarily transferred any possessory interest he may have had in the magazines to the purchaser upon the receipt of the funds.” Therefore, these actions cannot be deemed a Fourth Amendment seizure.

Citation

472 U.S. 463, 105 S. Ct. 2778 (1985)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

New York v. Class

Facts

Two police officers observed the defendant engaging in traffic violations. They stopped the defendant, who emerged from his car and approached the officers.

The first officer opened the door of the vehicle to look for the VIN (which was located on the left doorjamb on vehicles manufactured before 1969). When he did not find the VIN there, he reached into the interior of the car to move some papers obscuring the area of the dashboard where the VIN is located in later model cars. In doing so, the officer saw the handle of a gun protruding from underneath the driver's seat. He seized the gun and arrested the defendant. The officers had no reason to suspect that the defendant's car was stolen, that it contained contraband, or that the defendant had committed an offense other than the traffic violations.

Issue

Whether the defendant has a reasonable expectation of privacy in his vehicle's VIN location?

Held

No. Because of the important role played by the VIN in the pervasive government regulation of the automobile and the efforts by the government to ensure that the VIN is placed in plain view, there is no reasonable expectation of privacy in the VIN.

Discussion

An automobile's interior is protected by the Fourth Amendment's prohibition against unreasonable intrusions by the government. However, the officer's reaching into the vehicle to remove the papers was not an unreasonable search but was incidental to viewing something in which the defendant has no reasonable expectation of privacy. The fact that papers on the dashboard obscured the VIN from plain view did not create a reasonable expectation of privacy in the VIN.

Citation

475 U.S. 106, 106 S. Ct. 960 (1986)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

Bond v. United States

Facts

A Border Patrol agent entered a bus to check the immigration status of the occupants. After satisfying himself that the passengers were lawfully in the United States, the agent walked toward the front of the bus, squeezing the soft luggage passengers had placed in the overhead storage bin. The agent felt a “brick-like” object in a green canvas bag. After verifying with the defendant that he owned the bag, the agent obtained consent to search its contents. He found a quantity of methamphetamine wrapped in duct tape, rolled in a pair of pants.

Issue

Whether the agent’s squeezing of the passengers’ containers was a “search” under the Fourth Amendment?

Held

Yes. Placing items in public view does not convey the expectation that they will be handled by members of the public.

Discussion

Under Katz, a search can be defined as a government intrusion on a reasonable expectation of privacy. The government argued that the defendant did not have a reasonable expectation of privacy because he exposed his container to the public. The defendant could not prevent any other member of the public from handling the container. Therefore, he should not have the ability to complain when the government does.

However, the Court found this does not mean that introducing items into the public allows others to manipulate the property. It is true that fellow passengers and bus employees may handle the containers found in the overhead bin. However, the defendant would not have expected anyone to “feel the bag in an exploratory manner.” The Border Patrol agent exceeded the scope of what the public could have been expected to do (which went beyond merely viewing or engaging in incidental contact), thereby intruding on the defendant’s reasonable expectation of privacy.

Citation

529 U.S. 334, 120 S. Ct. 1462 (2000)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

REASONABLE EXPECTATION OF PRIVACY

United States v. Place

Facts

The defendant's behavior aroused the suspicion of law enforcement officers as he waited in line at the Miami International Airport to purchase a ticket to New York's LaGuardia Airport. The officers approached the defendant and requested and received identification. There was a discrepancy in the name given by the defendant and his baggage tags. The defendant gave permission to the officers to open his luggage. As the defendant's flight was about to leave, the officers decided not to search his luggage and allowed the defendant to depart. They called DEA in New York and relayed their information. Upon the defendant's arrival in New York, two DEA agents approached him and said that they believed he might be carrying narcotics. When he refused to consent to a search of his luggage, one of the agents told him they were going to take the luggage to a federal judge to obtain a search warrant. The agents took the luggage to Kennedy Airport where it was subjected to a "sniff test" by a drug dog. The dog reacted positively to one of the suitcases. At this point, ninety minutes had elapsed since the seizure of the luggage. The agents obtained a search warrant and opened the luggage. They discovered cocaine inside.

Issues

1. Whether the prolonged seizure of the defendant's baggage rendered the seizure unreasonable?
2. Whether a dog sniff is a "search" within the meaning of the Fourth Amendment?

Held

1. Yes. The agents were justified in conducting a limited seizure of the containers, but their unnecessary delay rendered their seizure unreasonable.
2. No. Dog sniffs do not entail the intrusions typically found in the traditional Fourth Amendment searches.

Discussion

Traditionally, the Court has viewed a seizure of personal property as per se unreasonable unless it is accomplished pursuant to a search warrant. When law enforcement authorities have probable cause to believe "that a container holds contraband or evidence of a crime, but have not secured a warrant, the Court has interpreted the Amendment to permit seizure of the property, pending issuance of a warrant to examine its contents, if the exigencies of the circumstances demand it or some other recognized exception to the warrant requirement is present." Neither of those circumstances was present in this case. However, "when an officer's observations lead him to reasonably to believe that a traveler is carrying luggage that contains narcotics, the principle of Terry and its progeny would permit the officer to

detain the luggage briefly to investigate the circumstances that aroused his suspicion, provide that the investigative detention is properly limited in scope.”

In evaluating the reasonableness of a Terry-type detention, the brevity of the invasion of the individual’s Fourth Amendment interests is an important factor in determining whether the seizure is so minimally intrusive as to be justifiable on reasonable suspicion. Moreover, in assessing the effect of the length of detention, we take into account whether the police diligently pursue their investigation.” On this occasion, the agents in New York did not make effort to have minimized the intrusion on the defendant’s Fourth Amendment protection.

As for the “sniff test” by a trained narcotics dog, the Court found that this tool does not amount to a “search” because it “does not require opening the luggage. It does not expose non-contraband items that otherwise would remain hidden from public view, as does, for example, an officer’s rummaging through the contents of the luggage.” “Moreover, the sniff discloses only the presence or absence of narcotics, a contraband item. Thus, despite the fact that the sniff tells the authorities something about the contents of the luggage, the information obtained is limited.”

Citation

462 U.S. 696, 103 S. Ct. 2637 (1983)

OPEN FIELDS

Hester v. United States

Facts

Federal agents, hiding fifty to one hundred yards from defendant's house, saw a car drive on to the property. They observed the defendant sell moonshine to the driver.

Issue

Whether the Fourth Amendment protection of privacy in persons, houses, papers, and effects extends to "open fields?"

Held

No. Those observations made from the "open fields" are not subject to Fourth Amendment protections.

Discussion

The concept of "open fields" is very old. The special protection accorded by the Fourth Amendment to the people in their 'persons, houses, papers, and effects' is not extended to the "open fields." There is no intrusion onto reasonable expectation of privacy when government agents enter onto open fields. Therefore, there is no Fourth Amendment search. The Court said that, even if there had been a trespass, the observations were not obtained by an illegal search or seizure. The Court affirmed this viewpoint in *U.S. v. Jones*, which expanded the definition of a search to include trespass onto the property of others for the purpose of obtaining information.

Citation

265 U.S. 57, 44 S. Ct. 445 (1924)

OPEN FIELDS

Oliver v. United States

Facts

Narcotic agents, acting on a report that marijuana was being grown on the defendant's farm, went there to investigate. They drove past the defendant's house to a locked gate with a "no trespassing" sign, but with a footpath around the gate on one side. The agents walked around the gate and along the footpath and found a field of marijuana over a mile from the defendant's house.

Issue

Whether the officers' observations were made from the open field?

Held

Yes. The officers' observations were made from an area in which the defendant did not have the ability to challenge.

Discussion

Steps taken to protect privacy, such as planting the marijuana on secluded land and erecting fences and "No Trespassing" signs around the property, do not necessarily establish an expectation of privacy in an open field. Open fields do not provide the setting for those intimate activities that the Fourth Amendment is intended to shelter from government intrusion or surveillance.

Citation

466 U.S. 170, 104 S. Ct. 1735 (1984)

OPEN FIELDS

United States v. Dunn

Facts

DEA agents suspected the defendant of manufacturing controlled substances on his ranch. The ranch was completely encircled by a perimeter fence, and contained several interior barbed wire fences, including one around the house approximately fifty yards from the barn, and a wooden, corral fence enclosing the front of the barn. The barn had an open overhang and locked, waist high gates. Agents, without a warrant, climbed over the perimeter fence, several of the barbed wire fences, and the wooden fence in front of the barn. They were led there by the smell of chemicals, and while there, could hear a motor running inside. They shined a flashlight inside and observed a drug lab. Using this information, the agents obtained and executed a search warrant.

Issue

Whether the officers' observations were made in the open field?

Held

Yes. The officers did not intrude upon an area where the defendant had a reasonable expectation of privacy, nor did they intrude upon a constitutionally protected area. (the defendant's person, house, papers or effects).

Discussion

The Court held that it will consider four factors in determining if an area is in the open field or curtilage:

- 1) Proximity of the area to the home;
- 2) Whether the area is within an enclosure that also surrounds the home;
- 3) The nature and use to which the area is put; and,
- 4) Steps taken by the resident to protect the area from observation by passers-by.

The Court held that the defendant did not establish the area surrounding his barn as curtilage. Therefore, the officers' intrusion into this area was not a search. Also, the warrantless naked-eye observation of an area in which a reasonable expectation of privacy exists is not a search; nor is the shining of a flashlight into an area of reasonable expectation of privacy.

Citation

480 U.S. 294, 107 S. Ct. 1134 (1987)

ABANDONED PROPERTY

California v. Greenwood

Facts

Officers had information indicating that the defendant was involved in trafficking narcotics. They obtained garbage bags from his regular trash collection left on the curb in front of his house. The officers developed probable cause and obtained a search warrant based on evidence found in the garbage. The search warrant yielded quantities of controlled substances. The defendant and others were arrested and released on bail. The officers again received information that the defendant was engaged in narcotics trafficking. Again the officers obtained his garbage from the regular trash collector. A second warrant was executed and the officers found more evidence of trafficking in narcotics.

Issue

Whether the defendant had a reasonable expectation of privacy in garbage left for collection outside the curtilage of his home?

Held

No. The defendant abandoned any reasonable expectation of privacy in the items he left for collection outside the curtilage of his home.

Discussion

An individual abandons any expectation of privacy in garbage bags once left at the curb outside his curtilage. It is common knowledge that plastic garbage bags left on or at the side of a public street are readily accessible to animals, children, scavengers, snoops, and other members of the public. In addition, in this case, the defendant placed his trash at the curb for the express purpose of conveying it to a third party, the trash collector. The trash collector might have sorted through the trash or allowed others, such as the government, to do so. Accordingly, the defendant had no reasonable expectation of privacy in the items discarded. What a person knowingly exposes to the public, even in his own home or office, does not enjoy Fourth Amendment protection.

Citation

486 U.S. 35, 108 S. Ct. 1625 (1988)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

ABANDONED PROPERTY

Abel v. United States

Facts

INS agents arrested the defendant in his hotel room to deport him. The defendant was permitted to pay his bill and get out of the room. Immediately thereafter, FBI agents obtained the permission of hotel management to search the room vacated by the defendant. They found evidence linking the defendant to espionage.

Issue

Whether the defendant maintained a reasonable expectation of privacy in the hotel room?

Held

No. The defendant has abandoned his interests of privacy in the room.

Discussion

Once the defendant checked out of the room, the hotel management had the exclusive right of access. The government obtained consent from a party with the authority to grant it. The Court held that the defendant “had abandoned these articles. He had thrown them away.” Therefore, their seizure was lawful.

Citation

362 U.S. 217, 80 S. Ct. 683 (1960)

FOREIGN SEARCHES

United States v. Verdugo-Urquidez

Facts

The defendant was a citizen and resident of Mexico. A federal court issued a warrant for his arrest for narcotic-related offenses. He was arrested by Mexican officials and turned over to U.S. Marshals in California. Following the arrest, a DEA Agent in concert with Mexican law enforcement searched the defendant's residences located in Mexico. The agent believed the searches would reveal evidence of defendant's narcotics trafficking and his involvement in the torture-murder of a DEA Agent. Arrangements were made with appropriate Mexican officials who authorized the searches. One search uncovered a tally sheet that the government believed reflected the quantities of marijuana smuggled by defendant into the United States.

Issue

Whether the Fourth Amendment applies to the search and seizure by U.S. agents of property that is owned by a foreign national and located in a foreign country?

Held

No. The Fourth Amendment's Warrant Clause has no applicability to searches of non-U.S. citizens' homes located in foreign jurisdictions because U.S. magistrates have no power to authorize such searches.

Discussion

The Fourth Amendment does not apply where American officers search a foreign national who has no "substantial connections" with the United States and where the search takes place outside the United States. The Fourth Amendment protects "the people." The term "the people" refers to a class of persons who consist of a national community or who have otherwise developed sufficient ties with this country to be considered part of that community. This language contrasts with the words "person" and "accused" used in the Fifth and Sixth Amendments regulating procedure in criminal cases.

The Fifth and Sixth Amendment rights are different from Fourth Amendment rights. They are fundamental trial rights; a violation occurs only at trial. A violation of the Fourth Amendment is fully accomplished at the time of an unreasonable intrusion by government agents. Therefore, any possible Fourth Amendment violation occurred in Mexico.

The absence of local judges or magistrates available to issue warrants, the differing and perhaps unascertainable conceptions of reasonableness and privacy that prevail abroad, and the need to cooperate with foreign officials all indicate that the Fourth Amendment warrant requirement should not apply abroad.

Citation

494 U.S. 259, 110 S. Ct. 1056 (1990)

PRIVATE INTRUSIONS

United States v. Jacobsen

Facts

While examining a damaged package, two delivery company employees opened it to check the contents. They observed a white, powdery substance. The substance had been wrapped eight times before being placed in the package. The employees repacked the contents of the package and notified the DEA of their discovery. A DEA agent went to the company office, removed some of the contents and conducted a field test that identified the substance as cocaine.

Issue

Whether the Fourth Amendment required the DEA agent to obtain a search warrant before removing part of the powder and conducting a field test on it?

Held

No. The defendant's reasonable expectation of privacy in the package had been destroyed by the actions of the private delivery employees.

Discussion

A "search" under the Fourth Amendment occurs when the government intrudes on an area where an individual has a reasonable expectation of privacy, or trespasses on a person, house, paper or effect for the purpose of gathering information. The Constitution and its amendments do not apply to the activities of private individuals not acting as agents of the government. Here, the initial invasion by the two employees was not subject to the Fourth Amendment. And, once an individual's original expectation of privacy is destroyed, the Fourth Amendment does not prohibit governmental use of the now non-private information. The additional intrusion of the field test was also determined to be reasonable.

Citation

466 U.S. 109, 104 S. Ct. 1652 (1984)

PRIVATE INTRUSIONS

Walter v. United States

Facts

A private carrier mistakenly delivered several packages containing films depicting pornographic images to a third party. The third party opened the packages, finding suggestive drawings and explicit descriptions of the contents. The third party opened one or two of the packages and attempted without success to view portions of the film by holding it up to the light. After the FBI was notified and picked up the packages, agents viewed the films with a projector.

Issue

Whether the viewing of the films constituted a government intrusion on a reasonable expectation of privacy?

Held

Yes. Even though the private parties destroyed any reasonable expectation of privacy regarding the depictions and descriptions found on the film boxes, the agents exceeded the scope of this intrusion by viewing the film.

Discussion

It is well settled that an officer's authority to possess a package is distinct from his authority to examine its contents. When the contents of the package are books or other materials arguably protected by the First Amendment, and when the basis for the seizure is disapproval of the message contained therein, it is especially important that this requirement be scrupulously observed.

Some circumstances – for example, if the results of the private search are in plain view when materials are turned over to the government (see *United States v. Jacobsen*) – may justify the government's re-examination of the materials. However, the government may not exceed the scope of the private search unless it has the right to make an independent search. The nature of the contents of the films was indicated by descriptive material on their individual containers. This did not allow the government's unauthorized screening of the films absent consent, exigency or a warrant. The screening constituted an unreasonable invasion of their owner's constitutionally protected interest in privacy. It was a search; there was no warrant; the owner had not consented; and there were no exigent circumstances. Therefore, the intrusion of viewing the films with a projector was unreasonable.

Citation

447 U.S. 649, 100 S. Ct. 2395 (1980)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

THIRD-PARTY CONTROL

United States v. Miller

Facts

ATF agents were investigating the defendant. Agents served grand jury subpoenas on the presidents of banks where the defendant kept accounts. The banks made the documents available to the agents, which were used in their investigation of the defendant.

Issue

Whether the defendant had a reasonable expectation of privacy in records held by the banks?

Held

No. The defendant had no reasonable expectation of privacy in his bank records, since the bank was a third party to which he disclosed his affairs when he opened his accounts at the bank.

Discussion

There is no reasonable “expectation of privacy” in the contents of the original checks and deposit slips, since the checks are not confidential communications. They are negotiable instruments to be used in commercial transactions, and all the documents obtained contain only information voluntarily conveyed to the banks and exposed to their employees in the ordinary course of business. The Fourth Amendment does not prohibit the obtaining of information revealed to a third party and conveyed by him to government authorities. The issuance of a subpoena to a third party does not violate a defendant’s rights, even if a criminal prosecution is contemplated at the time the subpoena is issued.

NOTE: The requisition of bank records must be in compliance with federal and state statutes.

Citation

425 U.S. 435, 96 S. Ct. 1619 (1976)

I. THE FOURTH AMENDMENT: WHAT IS A SEARCH?

THIRD-PARTY CONTROL

Smith v. Maryland

Facts

The victim of a robbery began receiving phone calls from the person who claimed to be the robber. After developing a suspect, the government installed a pen register, without a warrant, at the central telephone system to determine the specific phone numbers the suspect was dialing. After the government discovered the suspect had called the victim, the suspect (defendant) was charged him with robbery.

Issue

Whether the use of the pen register constituted a search?

Held

No. The defendant did not have a reasonable expectation of privacy in the phone numbers he dialed.

Discussion

The Court found that the defendant did not have a reasonable expectation of privacy regarding the numbers he dialed on his phone since those numbers were automatically turned over to a third party, the phone company. Even if the defendant did harbor some subjective expectation that the phone numbers he dialed would remain private, this expectation was not one that society was prepared to recognize as “reasonable.” Therefore, the Court concluded that installation of the pen register was not a “search” and no warrant was required.

Citation

442 U.S. 735, 99 S. Ct. 2577 (1979)

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