

Criminal Procedure

Search and Seizure

Topics

- Probable cause
- Good faith exception
- Warrant requirement

When is a search constitutional?

A search is constitutional

IF the police have a warrant AND the warrant is valid (probable cause)

OR IF a warrant exception applies

OR IF it's not a search

Probable Cause

People v. Griminger

524 N.E.2d 409 (N.Y. 1988)

State v. Tuttle

515 S.W.3d 282 (Tenn. 2017)

Aguilar / Spinelli Test

To establish probable cause, a search warrant affidavit must demonstrate:

1. the basis of the informant's knowledge, and
2. the credibility of the informant or the reliability of the information.

Gates Test

To determine whether an affidavit establishes probable cause, a magistrate should consider the totality of the circumstances.

Good Faith Exception

State v. Koivu

272 P.3d 483 (Idaho 2012)

Commonwealth v. Edmunds

586 A.2d 887 (Pa. 1991)

History of federal exclusionary rule

Weeks v. United States (1914)

Federal exclusionary rule.

Wolf v. Colorado (1949)

Fourth Amendment applies to states, but remedy up to states to decide.

Mapp v. Ohio (1961)

Exclusionary rule applies to the states.

Stone v. Powell (1976)

Exclusionary rule not a constitutional right but designed to deter police misconduct.

United States v. Leon (1984)

Good faith exception

Idaho Precedents

State v. Arregui
(Idaho 1927)

State v. Rauch
(Idaho 1978)

Commonwealth v. Edmunds

586 A.2d 887 (Pa. 1991)

Pennsylvania's Analytic Framework

For state constitutional law issues, litigants should analyze:

1. Text of the state constitution
2. History of the constitutional provision, including case law
3. Related case law from other states
4. Policy considerations

Warrant Requirement

State v. Earls

70 A.3d 630 (N.J. 2013)

State v. Bryant

950 A.2d 467 (Vt. 2008)

State v. McKelvey

544 P.3d 632 (Alaska 2024)

State v. Leonard

943 N.W.2d 149 (Minn. 2020)

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What constitutes a search?

Contrast

State v. Earls

70 A.3d 630 (N.J. 2013)

with

United States v. Jones (2012)

Police installation of a tracking device on defendant's car constitutes a trespass, therefore a search warrant was required.

Reasonable expectation of privacy

1. Defendant had an expectation of privacy
2. This expectation of privacy is one that society finds reasonable

Contrast

State v. Bryant

950 A.2d 467 (Vt. 2008)

with

Florida v. Riley (1989)

A defendant has no reasonable expectation of privacy from a police helicopter flying above their home, therefore no search warrant is required.

State v. McKelvey

544 P.3d 632 (Alaska 2024)

Alaska:

“a value judgment whether, if the particular form of surveillance practiced by the police is permitted to go unregulated by constitutional restraints, the amount of privacy and freedom remaining to citizens would be diminished to a degree inconsistent with the aims of a free and open society”

Federal and most states:

The defendant had an expectation of privacy, and this expectation of privacy is one that society finds reasonable

State v. Leonard

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