

Criminal Procedure

Questions to guide us for search and seizure

What is the nature of a right “against unreasonable searches and seizures”? How should that right be protected?

If search warrants require probable cause, what is probable cause?

When is a warrantless search still reasonable?

How should stare decisis factor into constitutional interpretation, particularly when federal and state precedents are intertwined?

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)

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

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

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

Reasonable expectation of privacy

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

Crim Pro Recap

Topics

- Search and seizure
 - Probable cause
 - Good faith exception
 - Warrant requirement

Probable Cause

People v. Griminger

524 N.E.2d 409 (N.Y. 1988) (Stick with Aguilar/Spinelli)

State v. Tuttle

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

Good Faith Exception

State v. Koivu

272 P.3d 483 (Idaho 2012) (Rejecting good faith exception)

Commonwealth v. Edmunds

586 A.2d 887 (Pa. 1991) (Rejecting good faith exception)

Warrant Requirement

State v. Earls

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

State v. Bryant

950 A.2d 467 (Vt. 2008) (helicopter over property)

State v. McKelvey

544 P.3d 632 (Alaska 2024) (airplane and telephoto camera)

State v. Leonard

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

School Funding

Basis for school funding litigation:

- Equality
- Adequacy

Questions to guide us for school funding cases

Does the state constitution provide a fundamental right to education? Or are public education clauses only a duty imposed on the legislature?

What are the differences between equality, adequacy, and uniformity?

How should a court determine whether school funding laws are unequal, inadequate, or not uniform?

Federal Backdrop

Rodriguez v. San Antonio Indep. Sch. Dist.
406 U.S. 966 (1972)

Two theories:

- education is a fundamental right
- wealth is a suspect class

Substantive Due Process

Due Process Clause of the Fourteenth Amendment protects

1. Rights specified within the bill of rights
2. “Fundamental” rights that are not specified within the Constitution.

Fundamental rights are only recognized if they are “deeply rooted in our history and tradition” and “essential to the nation’s concept of ordered liberty.”

Equality Cases

Hornbeck v. Somerset County Board of Education

458 A.2d 758 (Md. 1983)

Horton v. Meskill

376 A.2d 358 (Conn. 1977)

Vincent v. Voight

614 N.W.2d 388 (Wis. 2000)

Hornbeck v. Somerset County Board of Education

458 A.2d 758 (Md. 1983)

Maryland constitution requires the “establishment and maintenance of a thorough and efficient statewide system of free public schools”

Horton v. Meskill

376 A.2d 358 (Conn. 1977)

The school fund “shall be inviolably appropriated to the support and encouragement of the public schools throughout the state, and for the equal benefit of all the people thereof.” Conn. Const, Art. 8 § 4.

Vincent v. Voight

614 N.W.2d 388 (Wis. 2000)

“The legislature shall provide by law for the establishment of district schools, hwich shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years.” Wisc. Const. Art. X § 3.

