

Florida v. Jardines

# 4<sup>th</sup> Amendment

- “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause.”
- Helpful terms:
  - Expectation of privacy – the more a reasonable person expects privacy in a given situation, the more likely a warrant will be necessary.
  - Exigent Circumstances – the harder it is to get a warrant in a given situation, the more likely a warrant will not be deemed as necessary. e.g. car searches
  - Custodial Arrest – when the arrestee is no longer free

# The Fourth Amendment

- The best way to think about the 4<sup>th</sup> Amendment is it requires a search warrant for searches, but then the Supreme Court has made numerous exceptions to this requirement.
- The exceptions include:
  - Plain View
  - Search Incident to Arrest
  - Hot Pursuit
  - Vehicles
  - Emergency Circumstances

# Issues Related to Drug Dogs

- Is the use of a drug sniffing dog a search?
  - If it is not considered a search, it does not fall under the 4<sup>th</sup> Amendment.
  - the court has said it was not a search when used to:
    - smell a suitcase at a transit hub, e.g. airport
    - inspect a package damaged in transit that was leaking a white powder
    - sniff around a car door that was stopped at a routine highway checkpoint or stopped due to a traffic violation
  - the court has NOT determined how dogs can be used a house.
- Is an alert by the dog sufficient grounds to issue a search warrant?

# Are Houses Different?

- The Court has always provided greater privacy protections for houses.
  - All of the precedent dealing with drug-sniffing dogs has involved places other than homes.
  - Many of these places (especially cars) have been deemed to be less private, and thus the interest of the individual is less.

# Precedent

- Edmonds (2000) – use of dogs at checkpoint whose primary purpose was discovery of criminal activity unconstitutional.
  - Michigan v. Sitz – administrative checkpoints allowed  
→ purpose keep roads safe.
  - U.S. v. Place – dogs allowed to sniff luggage at airports
- Kyllo (2001) – use of thermal imaging device unconstitutional without warrant.
  - Cannot use technology to see inside of house.

# Precedent

- Caballes (2005) -
  - Initial stop of the car was lawful = speeding.
  - No legitimate expectation of privacy to exterior of car
  - No expectation of privacy = no 4<sup>th</sup> Amendment interest.

# Question Presented

- Whether a dog sniff at the front door of a suspected grow house by a trained drug-detection dog is a Fourth Amendment search requiring probable cause?



# Petitioners

- Petitioner, First Participant
  - Facts
  - Arguments (I) – not a search
    - Drug dog sniff is not a search under current precedent
      - Draw comparisons to *Place*, *Edmond*, *Caballes*
    - Such a finding does not conflict with the *Kyllo* cases (I)
- NOTE – this unfortunately was not a very well written brief, but there is more than enough here to work with. Concentrate on the four cases and drawing comparisons to them.

# Petitioners

- Second Participant - Arguments (II) – houses are not different
  - dog sniff on both to house did not violate sanctity of home because there was no physical entry (A)
  - prohibition of sensory enhancement devices is not similar to a dog sniff (again distinguishing Kyllo) (B)
    - NOTE: the distinguishing places much more emphasis on the kind of device used in Kyllo.
  - no danger of dragnet-type searches (C)

# Respondents

- Participant 1
  - Facts
  - Argument – entry on to property is search (II)
    - front door and area immediately adjacent to it are part of house that is protected by 4<sup>th</sup> Amendment. (A)
    - entry onto property without permission is common law trespass (B)
    - approaching the front door for purposes of gathering evidence is a search ©
  - NOTE – this is being argued in reverse order because Part II probably has less than Part I, but you can argue them in order if you would like.

# Respondents

- Participant 2 Arguments – dog sniff is a search (I)
  - history shows a dog sniff is a search because it reveals information in a home that someone wishes to keep private. (A)
  - Place, Edmond, Caballes are not precedent for using drugs dogs at homes. (B)
  - Physical entry into home not necessary to be a search (Kyllo) (C)