

Police-Citizen Interactions

Legal Overview of Search & Seizure

JCAT Conference
Tuesday, September 1, 2026

Scott Kimberly
Attorney at Law
scott@murfreesborolawyer.com

WWW.MURFREESBOROLAWYER.COM

Why are you here?

What This Presentation Is / Is Not

We Will Not Be Covering:

How to Determine “Probable Cause”

Public Policy / Legislative Developments

We Will Be Covering:

Police-Citizen Encounters

The talk for the friends and bartenders in your life!

Examples & Explanations from Tennessee Cases

Officer Down Memorial Page (ODMP)

WWW.MURFREESBOROLAWYER.COM

Police-Citizen Interactions

Legal Overview of Search & Seizure

When Police Request to Search:
The Answer is Easy...

The Answer is Always **NO**

NOTE: We are talking about searches

Police-Citizen Interactions

Legal Overview of Search & Seizure

The Law

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, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

United States Constitution, Fourth Amendment

That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures...

Tennessee State Constitution, Art. I, § 7

Police-Citizen Interactions

Legal Overview of Search & Seizure

Application of the Law

The most basic constitutional rule in this area is that "searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." **The exceptions are "jealously and carefully drawn."**

Coolidge v. New Hampshire

United States Supreme Court (1971)

Police-Citizen Interactions

Legal Overview of Search & Seizure

When Can Police Search?

...no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

1. Search Warrant
2. Exception

Police-Citizen Interactions

Legal Overview of Search & Seizure

Search Warrant

Exception: P-A-C-E

Plain View

Arrest

Consent

Emergency Circumstances

Police-Citizen Interactions

Legal Overview of Search & Seizure

What You Need to Know

NO Warrant

NO Exception

NO Search

Police-Citizen Interactions

Legal Overview of Search & Seizure

What is a Seizure?

Two Common Seizures:

1. Arrest (Probable Cause)
2. Terry Stop (Reasonable Suspicion)

Police-Citizen Interactions

Legal Overview of Search & Seizure

When Can Police Seize You?

Probable Cause

Arrest

Reasonable Suspicion

Terry Stop

Mere Suspicion

No Seizure!

Police-Citizen Interactions

Legal Overview of Search & Seizure

Traffic Stops

Is a Traffic Stop a Seizure?

Yes! But there are two types:

1. Observation of Traffic Infraction
2. Reasonable Suspicion you Committed a Crime (e.g. DUI, which is a Terry Stop)

Police-Citizen Interactions

Legal Overview of Search & Seizure

Traffic Stops

What do I have to do?

1. Provide Identification
2. Provide Paperwork
3. Exit the Vehicle (Officer Safety)

That's It!

Police-Citizen Interactions

Legal Overview of Search & Seizure

Key Takeaway for Traffic Stops:

Do not provide the information that turns reasonable suspicion into probable cause!

- *Don't get it backwards!*
- Ex: Field Sobriety Tests
- Ex: Portable Breath Tests

Police-Citizen Interactions

Legal Overview of Search & Seizure

How do I end a Traffic Stop?

One Question. Two Answers.

Am I Under Arrest?

Police-Citizen Interactions

Legal Overview of Search & Seizure

Am I Under Arrest?

If NO: I want to leave

*What if they say you aren't under
arrest, but you aren't free to leave?*

Police-Citizen Interactions

Legal Overview of Search & Seizure

Am I Under Arrest?

If YES: I want a lawyer

NO Answering Questions

NO Voluntary Statements

NO Searches

Police-Citizen Interactions

Legal Overview of Search & Seizure

Traffic Stop Takeaway

One Question. Two Answers.

Am I Under Arrest?

If NO: I want to leave

If YES: I want a lawyer

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

Tennessee Case Law

[The Plain View Doctrine] limited exception allows law enforcement officers to seize evidence without a warrant when three prerequisites are satisfied:

- (1) the officer did not violate constitutional mandates in arriving at the location from which the evidence could plainly be seen;*
- (2) the officer had a lawful right of access to the evidence; and*
- (3) the incriminating character of the evidence was "immediately apparent," i.e., the officer possessed probable cause to believe that the item in plain view was evidence of a crime or contraband.*

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

This case arises from a Jackson Police Department officer's encounter with Ambreia Washington ("the Defendant") on November 6, 2020. At approximately 3:20 a.m., Officer Joshua Keller responded to a call reporting an automobile accident in a residential area. Officer Keller arrived at the scene and found a vehicle situated partially in the front yard of a residence, facing the wrong side of the road.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

When Officer Keller approached the vehicle, he found the Defendant in the driver's seat and subsequently observed a handgun lying on the front passenger seat. Officer Keller initially asked the Defendant to remain in his vehicle, but once the officer spotted the handgun, he instructed the Defendant to exit the vehicle. As the Defendant was stepping out of the car, Officer Keller asked if he was a convicted felon. The Defendant responded in the affirmative. At that point, Officer Keller began to handcuff the Defendant, but the Defendant attempted to flee toward the passenger's side of the vehicle. Officer Keller then tased the Defendant, placed him into custody, and seized the handgun.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

When Officer Keller approached the vehicle, he found the Defendant in the driver's seat and subsequently observed a handgun lying on the front passenger seat. Officer Keller initially asked the Defendant to remain in his vehicle, but once the officer spotted the handgun, he instructed the Defendant to exit the vehicle. As the Defendant was stepping out of the car, Officer Keller asked if he was a convicted felon. The Defendant responded in the affirmative. At that point, Officer Keller began to handcuff the Defendant, but the Defendant attempted to flee toward the passenger's side of the vehicle. Officer Keller then tased the Defendant, placed him into custody, and seized the handgun.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

At the motion to suppress hearing, Officer Keller testified that he was dispatched to an automobile accident in the early morning hours of November 6, 2020. Upon arriving at the scene, he saw a vehicle, still running but not in motion, on the wrong side of the road. The vehicle was partially in the roadway and partially in the yard of a residence. Officer Keller testified that the vehicle appeared to have run off the road and struck a mailbox, as the mailbox was tilted. The officer parked directly in front of the vehicle and shined his spotlight on the front of the vehicle, but he never initiated emergency lights or the sirens on his patrol car.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

Officer Keller then exited his patrol car to approach the driver's side of the vehicle. As he shined his flashlight into the vehicle, the Defendant "began to wake up." Officer Keller initially instructed the Defendant to stay in the vehicle. After noticing a handgun located on the front passenger's seat, however, the officer told the Defendant to exit the vehicle. As the Defendant was getting out, Officer Keller, without first providing Miranda warnings, asked the Defendant if he was a convicted felon. The Defendant answered that he was.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

Officer Keller testified that he planned to detain the Defendant in order to confirm his felony status. The officer pinned the Defendant against the vehicle and attempted to handcuff him, but the Defendant broke free and ran around the vehicle toward the passenger's side, where the gun was located. After briefly giving chase, Officer Keller deployed his taser on the Defendant and placed the Defendant under arrest. Officer Keller seized the handgun from the vehicle and checked the Defendant's driver's license and criminal history, although the precise order of events following the arrest is unclear. The driver's license check revealed that the Defendant was driving on a suspended license, and the criminal history search confirmed that the Defendant was a convicted felon.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

PREVIOUSLY HELD: Defendant statement is *not* admissible as a *Miranda* violation

ISSUE: Was the gun properly seized under Plain View?

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

- (1) *the officer did not violate constitutional mandates in arriving at the location from which the evidence could plainly be seen;*

No Dispute Here-- Satisfied

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

(2) the officer had a lawful right of access to the evidence

“The second prerequisite, that the officer had a lawful right to access the gun, is satisfied if he had probable cause to believe the vehicle contained contraband.”

“This circumstance begs the question of whether such a statement obtained in violation of *Miranda* can be used to establish probable cause under the plain view doctrine. This is an issue of first impression before the Court.”

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

(3) *the incriminating character of the evidence was
"immediately apparent"*

The Supreme Court has construed "immediately apparent" to mean simply that the viewing officers must have probable cause to believe an item in plain view is contraband before seizing it. So long as the probable cause to believe that items in plain view constitute contraband arises while the police are lawfully on the premises... we see no basis to declare a Fourth Amendment violation.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

Is this a lawful search?

- (1) *the officer did not violate constitutional mandates in arriving at the location from which the evidence could plainly be seen*
- (2) *the officer had a lawful right of access to the evidence– KEY ISSUE!*
- (3) *the incriminating character of the evidence was "immediately apparent," i.e., the officer possessed probable cause to believe that the item in plain view was evidence of a crime or contraband*

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Plain View

State v. Washington (Tenn. 2024)

HELD: GOOD SEARCH

While *Miranda* prohibits the government from using a defendant's unwarned statements *at trial*, it does not categorically prohibit the government from using nontestimonial evidence derived from such statements...

...we conclude that the Defendant's statement was not coerced, and the firearm — nontestimonial evidence derived from the voluntary but unwarned statement — need not be suppressed due to the *Miranda* violation.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

On November 11, 1999, the Defendant was stopped for speeding on Interstate 40 by the Tennessee Highway Patrol. Troxell, who was traveling 78 to 80 miles per hour in a 70 miles per hour zone, admitted that he had accelerated to pass a tractor-trailer truck. Troxell produced his driver's license and said that he was driving a company truck registered in the name of his employer's wife.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

Trooper Norrod issued a warning citation to the defendant and explained that it would not require a court appearance or a fine. Trooper Norrod then asked the defendant, "Do you have any weapons in the vehicle?" Troxell responded, "No, nothing." When Trooper Norrod asked if he could "take a look," Troxell answered, "Yeah, go ahead." Trooper Norrod conducted a pat down search of the defendant and then searched the interior compartment of the pickup truck and all of the luggage inside. During the search, Troxell was led to the side of the roadway by another officer who had arrived at the scene, Trooper Ferrell.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

After completing an extensive search of the interior of the pickup truck and the luggage therein that lasted nearly 20 minutes, Trooper Norrod then examined the underside of the vehicle. He observed that the bolts and hoses to the gas tank appeared to have been recently removed, and when he tapped on the gas tank, in his opinion it did not "resonate" as it would if it held only fuel. After obtaining a mirror and a flashlight from his patrol car, Trooper Norrod again looked under the truck and observed silicone sealant on and around the gas tank, which he believed was "not normal." Based on these observations and his experience in interdiction, Trooper Norrod concluded that there was something inside the tank other than fuel and that "it could have been [weapons]."

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

Trooper Norrod instructed the defendant to drive to a service station so the gas tank could be removed. After asking that the owners of the vehicle be notified as to what was occurring, the defendant drove to the service station where the gas tank was removed and 300 grams of cocaine were discovered inside.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

Trooper Norrod admitted during the suppression hearing that although he asked the defendant specifically about weapons and not drugs, a K-9 unit arrived at the scene and a drug detection dog conducted a sweep of the vehicle, which was negative. He testified that "in his mind," the defendant's consent meant that he could search "anywhere" and that Troxell never objected to the search at any time. Trooper Norrod conceded, however, that "most people might reasonably think that would mean [he was] going to look inside the cab of their truck."

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

Troxell testified during the suppression hearing that he believed the officer was going to search the interior cab of the pickup truck and that he did not object or attempt to limit the search because he had been led to the side of the road by Trooper Ferrell. Trooper Norrod testified that Troxell was moved out of the way so that the events could be videotaped and for safety and security reasons.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

HELD: Not Valid Consent

After considering the testimony and viewing the videotape of the encounter, the trial court found that the search exceeded the scope of the defendant's consent and suppressed the evidence. The trial court stated:

If the officer had asked for a consent to search for drugs in the vehicle, I think this would have been a valid consent, because that would be one of the places that could be searched for drugs. But for weapons, I tend to agree with ... the Defense.... One wouldn't normally think about weapons under the underside or secreted in some concealed fashion.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

COURT OF CRIMINAL APPEALS: Reversed!

The Court of Criminal Appeals reversed, however, concluding that Trooper Norrod's belief that the defendant's consent to search "in the vehicle" encompassed the undercarriage and gas tank of the truck was "objectively reasonable."

The appellate court remanded the case for trial.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Consent

State v. Troxell (Tenn. 2002)

SUPREME COURT: *Not Valid Consent*

Even if the consent is voluntary, evidence seized in the search will not be admissible if the search exceeds the scope of the consent given.

It follows from our conclusion that it was not objectively reasonable to believe that the consent to search "in the vehicle" would permit Trooper Norrod to examine the undercarriage and gas tank of the vehicle while continuing and prolonging the detention of the defendant.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

At approximately 11:45 p.m. on March 6, 2005, one of the occupants of Room 109 of the Park Motel in Manchester, Tennessee telephoned the Manchester Police Department to report a strange odor in her motel room. When Officer Scott Peterson returned the call, the caller told him that the odor appeared to be coming from an adjoining room and that the odor was causing her and her mother to have burning eyes and headaches.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

The caller also asked Officer Peterson "[w]hat does a meth lab smell like? What does making methamphetamine smell like?" Officer Peterson informed her that an actively operating methamphetamine laboratory has a distinct odor that is difficult to describe. After talking with the caller for approximately five minutes, Officer Peterson decided to follow up on the call. Even though the Manchester Police Department had received other similar calls that ultimately did not involve a methamphetamine laboratory, Officer Peterson was aware that other methamphetamine laboratories had been found at the Park Motel.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

Officer Peterson met with the caller in Room 109 of the Park Motel. Upon entering the room, he discovered that the odor, particularly in the bathroom area, was instantly recognizable and unmistakable. The odor indicated that the occupants of Room 110 were manufacturing methamphetamine. Officer Peterson also noted that the caller and her elderly mother were still complaining of burning eyes and headaches — symptoms consistent with the effects of the toxic fumes produced when methamphetamine is being manufactured.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

Officer Stuart Caldwell arrived at the Park Motel shortly after Officer Peterson. Officer Caldwell is certified as an expert regarding the production of methamphetamine. He has examined more than two hundred laboratories making methamphetamine, and he has been involved in more than one hundred and fifty methamphetamine prosecutions. Simply by standing in front of the door to Room 110, Officer Caldwell "could smell what [he] knew to be a meth lab."

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

Officers Peterson and Caldwell decided to knock on the door of Room 110 to speak with the occupant or occupants of the room. The officers received no response to their knocks, but with every knock, the odor intensified because the door was quite flimsy. In fact, the odor was so strong that Officer Peterson was forced to stand beside, rather than directly in front of, the door in order to avoid the fumes. While Officers Peterson and Caldwell were knocking on the door, they were joined by Corporal Ronny Gray who also immediately noticed the extremely strong odors of the ongoing manufacture of methamphetamine. The occupants of Room 110 did not respond to the officers' knocking, but the officers heard someone's voice inside the room and also heard the sound of breaking glass.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

Collectively, the officers agreed that they should enter Room 110 because of the dangers posed by manufacturing meth. The officers made this decision approximately five to ten minutes after Officer Peterson first arrived at the Park Motel. Corporal Gray obtained a key to Room 110 from the motel manager. When the officers unlocked the door, it still would not open completely because of a chain lock on the interior of the door. However, a large cloud of fumes escaped from the room through the partially opened door. The officers identified the fumes as a chemical cloud and concluded that the conditions in the room were extremely hazardous. Officer Peterson indicated that the air inside the room was not something that he "really want[ed] to be breathing" and that it posed a danger to others nearby.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

Officer Caldwell noted that the chemicals were capable of creating a fire. The officers continued to identify themselves in loud voices and to demand that the occupants of the room come to the door. Despite these commands, the occupants of the room still did not comply.

After receiving no response, the officers kicked in the door to Room 110. A hot plate with a glowing red heating element and bottles of peroxide and other unidentified liquids were near the door. Two men were in the room. Ernest Snyder stood in the bathroom with one of his hands behind his back. Randy Meeks was lying unconscious on the bed. When Mr. Snyder refused to comply with their commands to put his hands up, the officers removed him from the room. The intensity of the fumes in the room prevented the officers from re-entering.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

Before removing Mr. Meeks from the room, Officer Caldwell and Corporal Gray donned air suits they had obtained from the fire department. When they re-entered the room, Mr. Meeks was still lying unconscious on the bed. The officers dragged him from the room, and paramedics were able to resuscitate him. Mr. Meeks remained incoherent at the scene and was in intensive care for an extended period of time. Mr. Snyder also required hospitalization. Approximately ten minutes elapsed between the officers' first entry into Room 110 and their removal of Mr. Meeks.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

After Messrs. Meeks and Snyder were removed from the room, the officers called a hazardous materials team to the motel and placed an exhaust fan in Room 110. The persons who had been in the rooms adjacent to Room 110, including the person who placed the original telephone call to the police and her elderly mother, were relocated to other motels in Manchester. Later, when he was cross-examined regarding the decision not to evacuate the motel before entering Room 110, Officer Caldwell conceded that failing to remove the other motel occupants was "poor judgment" and that "[w]e should have done that first."

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

Using the information obtained from their warrantless entry of Room 110, the officers secured a search warrant. When the authorities searched Room 110, they found methamphetamine on the dresser, as well as evidence of a meth laboratory, including an HCL gas generator, plastic tubing, aluminum foil, a bottle of iodine crystals, a bottle containing muriatic acid, a Mason jar containing separating liquids, a plastic container of ephedrine, a gallon jug of iodine, and disposable plastic gloves.

Good Search?!

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

TRIAL COURT: Bad Search!

“Placing great significance on the fact that the officers had not evacuated the occupants of the adjoining rooms before they entered Room 110, the trial court concluded that the State had failed to demonstrate the existence of the sort of exigent circumstances that would justify a warrantless search.”

COURT OF APPEALS: Reversed!

“Relying on one of its unreported opinions, the Court of Criminal Appeals held that the warrantless entry and search of Room 110 was proper because the actions of Messrs. Meeks and Snyder “did indeed present an immediate threat to public safety.”

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Meeks (Tenn. 2008)

HELD: Good Search!

The hazards posed by an actively operating meth lab are so significant that courts have determined that the discovery of an actively operating meth lab, in and of itself, creates an exigent circumstance justifying immediate action without the attendant delays that accompany obtaining a search warrant.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

The matter began when the White County Sheriff's Office asked the neighboring Warren County Sheriff's Office to look for a male named Ronald Dishman who had multiple outstanding warrants for his arrest from White County. An employee of White County told an employee of Warren County that Mr. Dishman was likely armed with a handgun or a rifle and gave an address of a home where Mr. Dishman was supposedly located. About twenty minutes later, with this limited information and without any independent corroboration, nine Warren County deputies converged on the given address, which was Defendant's home.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

Upon arrival, Deputy Derek Bowles, who did not testify at the suppression hearing, saw a white male standing on the porch of the house. After seeing Deputy Bowles, the man went inside the house and shut the door behind him. For reasons that are not entirely clear, Deputy Bowles assumed that the man he saw on the porch was the intended arrestee, Mr. Dishman. The events that followed apparently flowed from Deputy Bowles' initial determination that the man on the porch "matched the description" that he had been given of Mr. Dishman. The record reflects Deputy Bowles was told that Mr. Dishman was a man and possibly located at Defendant's address.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

After the man on the porch went inside, the deputies surrounded the house armed with weapons (including shotguns and rifles). Deputy Tyler Glenn testified that he had a clear view of the front door of the house and could see several silhouettes running through the house. The deputies began yelling over loudspeakers toward the house, "Subjects in the residence, please come out with your hands up; we have the house surrounded." This stand-off went on for approximately twenty to thirty minutes until Defendant eventually exited her home. Once she came out of her house, Defendant was told to put her hands above her head, get down on her knees, and "walk" backwards from her front porch to the edge of the woods by her house.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

Defendant explained to the deputies that the man they were searching for, Ronald Dishman, was not inside the home. She offered to phone Mr. Dishman for them, but the deputies refused and continued to command the male subject to come out of the house. After five or ten more minutes, the male who had been seen on the porch emerged from the home. He was not Mr. Dishman, but rather a friend of Defendant named Scott Bell.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

Apparently believing that there was still someone inside the home, the deputies pressed Defendant repeatedly for consent to enter her home and look for Mr. Dishman. Defendant refused, and she and Mr. Bell insisted that Mr. Dishman was not in the house. After approximately one hour had passed from the time law enforcement surrounded her home, Defendant finally relented and gave written consent allowing law enforcement to search her home for Mr. Dishman. The deputies then entered with weapons drawn to "clear" the house and returned outside after determining that neither Mr. Dishman nor anyone else was inside.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

After Investigator Aaron Roberts left the house, he said that he had seen a bag of methamphetamine on the floor of a bedroom. Another deputy testified that the inside of the house had a "strong chemical smell" and that the air was "foggy." When confronted with this information, Defendant refused to consent to any further search of the house. The deputies then took several hours and obtained a search warrant for the home based on the information they saw during the sweep. While executing the search warrant, the deputies found methamphetamine, drug paraphernalia, and cash.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021) – The Law

In certain situations, "exigent circumstances" may justify the seizure of a home to execute an arrest warrant for someone who does not live there. This applies when "the `urgent need for immediate action becomes too compelling to impose upon governmental actors the attendant delay that accompanies obtaining a warrant.'...

*[Examples Include]: (1) hot-pursuit, (2) to thwart escape, (3) to prevent the imminent destruction of evidence, (4) in response to an immediate risk of serious harm to the police officers or others, and (5) to render emergency aid to an injured person or to protect a person from imminent injury. **These circumstances cannot be created by the officer's actions.***

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

Trial Court

The trial court denied Defendant's motion to suppress. The trial court's oral ruling indicated that the judge believed that the deputies had exigent circumstances to justify their actions after seeing Mr. Bell, whom they believed to be Mr. Dishman, quickly go back in the home after he saw law enforcement. In light thereof, the trial court held that if the deputies were legitimately able to stay and surround the home, then Defendant's subsequent consent to search the home was not coerced. However, the court noted that "[i]f the Court of Criminal Appeals finds otherwise... that one incident with regard to the gentleman that they saw on the porch and his activity did not give exigent circumstances, then certainly at that point forward, any consent would not be valid."

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

Court of Criminal Appeals

Held that the Certified Question did not resolve the entire case, dismissed the Appeal under the "Inevitable Discovery Doctrine"

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Emergencies

State v. Scott (Tenn. 2021)

Supreme Court: Bad Search! (Reversed Trial and CCA)

One possible "exigent circumstance" in this case would be if the officers were acting "in response to an immediate risk of serious harm to the police officers or others." The record does not support this theory. Mr. Bell did not threaten the officers with a weapon. He simply went inside and closed the door when he saw the deputies... As to the arguable exigent circumstance of preventing the destruction of evidence, there is simply nothing in the record to support it.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

Knock & Talks Generally Allowed

Absent express orders from the person in possession against any possible trespass, there is no rule of private or public conduct which makes it illegal per se, or a condemned invasion of the person's right of privacy, for anyone openly and peaceably, at high noon, to walk up the steps and knock on the front door of any man's "castle" with the honest intent of asking questions of the occupant thereof — whether the questioner be a pollster, a salesman, or an officer of the law.

“[A knock & talk] is not regarded as a search or seizure” but is, rather, “a purely consensual encounter, which officers may initiate without any objective level of suspicion”

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

Knock & Talks Generally Allowed

Absent express orders from the person in possession against any possible trespass, there is no rule of private or public conduct which makes it illegal per se, or a condemned invasion of the person's right of privacy, for anyone openly and peaceably, at high noon, to walk up the steps and knock on the front door of any man's "castle" with the honest intent of asking questions of the occupant thereof – whether the questioner be a pollster, a salesman, or an officer of the law.

"[A knock & talk] is not regarded as a search or seizure" but is, rather, "a purely consensual encounter, which officers may initiate without any objective level of suspicion"

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

State v. Christensen (Tenn. 2017)

The question before us in this case is whether posting "No Trespassing" signs near an unobstructed driveway is an express order sufficient to revoke or limit the invitation/license such that a police officer may not legitimately approach the residence via the driveway in order to conduct a warrantless knock-and-talk encounter.

Is this Constitutional?



Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

United States v. Bearden (8th Circuit, 2015)

Upholding knock-and-talk where officers entered property through open driveway gate despite “No Trespassing” signs

United States v. Hopper (6th Circuit, 2003)

Holding that knock-and-talk was allowed despite several “No Trespassing” signs near driveway

United States v. Holmes (Florida D.C., 2015)

Holding that, “in the absence of another barrier (such as a fence and gate), ‘No Trespassing’ signs do not, in and of themselves, withdraw the implied consent to conduct a knock and talk”

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

Davis v. City of Milwaukee (Wisconsin D.C., 2015)

Stating that “signs stating ‘Private Property’ or ‘No Trespassing’ do not, by themselves, create an impenetrable privacy zone”

United States v. Jones (Texas D.C., 2013)

Holding that multiple signs along driveway and on property stating “No Trespassing,” “Posted: Private Property,” and “Keep Out” did not invalidate knock-and-talk

Michel v. State (Alaska Ct. App., 1998)

Holding that four “No Trespassing” signs along three-hundred-yard driveway did not invalidate knock-and-talk.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

State v. Rigoulot (Idaho Ct. App., 1992)

Stating that “No Trespassing” signs cannot “reasonably be interpreted to exclude normal, legitimate inquiries” and holding that officers did not violate the Fourth Amendment despite the presence of “No Trespassing” signs

City of Beatrice v. Meints (Nebraska, 2014)

Holding that a resident “could not reasonably expect that tacking a ‘no trespassing’ sign to a tree would prevent others from viewing or walking on his land”

State v. Smith (N.C. App., 2016)

holding that “No Trespassing” sign did not revoke the implied license to approach the defendant's home, therefore knock-and-talk did not violate the Fourth Amendment

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

“[While] posting “No Trespassing” signs may indicate a desire to restrict unwanted visitors and announce one's expectations of privacy[,] . . . such signs cannot reasonably be interpreted to exclude normal, legitimate inquiries or visits by mail carriers, newspaper deliverers, census takers, neighbors, friends, utility workers and others who restrict their movements to the areas of one's property normally used to approach the home.”

State v. Rigoulot (Idaho Ct. App., 1992)

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

State v. Christensen (Tenn. 2017)

In short, a homeowner who posts a "No Trespassing" sign is simply making explicit what the law already recognizes: that persons entering onto another person's land must have a legitimate reason for doing so or risk being held civilly, or perhaps even criminally, liable for trespass. Consequently, as set forth above, a knock-and-talk conducted within constitutional parameters is a legitimate reason for police officers to enter the curtilage of a house via a driveway that is obstructed by nothing more than several "No Trespassing" signs.

Search & Seizure

Examples & Explanations

The Depths of Case Law

Fourth Amendment Exceptions: Knock & Talk

State v. Christensen (Tenn. 2017)

For this reason, we disagree with the dissent that “a ‘No Trespassing’ sign should be of particular significance to law enforcement officers in communicating that they may need to obtain a warrant before entering the property.”

Officers engaging in legitimate police business will conclude, correctly, that they are not engaging in a “trespass” when they approach a front door to conduct a knock-and-talk.

Police-Citizen Interactions

Legal Overview of Search & Seizure

The End!

Questions?

Scott Kimberly

Attorney at Law

scott@murfreesborolawyer.com

WWW.MURFREESBOROLAWYER.COM