

1952

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Recommended Citation

Edgar A. Strause, *CONSTITUTIONAL LAW-FOURTH AMENDMENT-EXCLUSION OF CONTRABAND EVIDENCE OBTAINED BY AN ILLEGAL SEARCH ON PREMISES NOT OWNED BY DEFENDANT*, 50 MICH. L. REV. 931 (1952).

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CONSTITUTIONAL LAW—FOURTH AMENDMENT—EXCLUSION OF CONTRABAND EVIDENCE OBTAINED BY AN ILLEGAL SEARCH ON PREMISES NOT OWNED BY DEFENDANT—The defendant was in the unlawful possession of narcotics. Having been given a key by his two aunts to their hotel room with authority to use the room at will, defendant stored the narcotics there without the knowledge of the occupants. A federal officer entered the hotel room, searched the room, and seized the narcotics during the absence of the occupants, without a search warrant. The defendant was arrested the following day and claimed ownership of the seized narcotics. He was convicted in the District Court of the District of Columbia for violation of federal law,¹ the court refusing to suppress the seized narcotics as evidence at the trial despite timely motion by the defendant to exclude. The court of appeals reversed the conviction.² On certiorari to the United States Supreme Court, *held*, affirmed, the Chief Justice and Justice Reed dissenting. Although the defendant had no interest in the place searched, he had a sufficient interest in the contraband narcotics seized in violation of the Fourth Amendment to be entitled to their exclusion as evidence on his trial. *United States v. Jeffers*, 342 U.S. 48, 72 S.Ct. 93 (1951).

To prevent abuse of the guaranties of the Fourth Amendment³ the Supreme Court enforces the exclusion from federal courts of evidence obtained by federal

¹ 38 Stat. L. 785 (1914), as amended, 44 Stat. L. 97 (1926), 26 U.S.C. (1946) §2553(a), and 21 U.S.C. (1946) §174.

² (D.C. Cir. 1950) 187 F. (2d) 498; noted in 64 HARV. L. REV. 1002 (1951), and 39 GEO. L.J. 503 (1951).

³ "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." U.S. Consr., Amend. IV.

officers in violation of the amendment.⁴ It is essential that a person have an *interest* in the premises searched or the property seized in order to have standing to invoke the exclusionary rule.⁵ The amendment secures both the right of persons to be free from the invasion of their homes and persons, and the right to have their property free from unreasonable seizure. However, the dual nature of the protection of the amendment has not often been subject to case examination because the seizure of a person's property is usually accomplished by a search on his premises. The instant case presents a situation in which the defendant has no standing to object to the search by virtue of interest in the premises invaded; thus the test of his right to have the evidence excluded depends on his interest in the goods which were seized. The seized narcotics in the principal case were contraband goods subject to forfeiture in which Congress has declared that no property rights shall exist.⁶ The Court determined, however, that although the defendant was not entitled to have the illegally seized narcotics returned to him because of their contraband nature, still the drugs were his property for the purpose of allowing him to invoke the exclusionary rule.⁷ Cases heretofore do not clearly indicate whether or not the contraband character of goods seized will affect the measure of judicial protection under the Fourth Amendment. In determining the reasonableness of a search or seizure and thus whether the evidence so obtained may be excluded, the Supreme Court has required, as a minimum, that the search or seizure be either with a warrant or incident to a valid arrest.⁸ Judicial precedent does make it clear that this minimum requirement will not be disturbed because of the contraband character of the goods. However, where the search is incident to a

⁴ *Weeks v. United States*, 232 U.S. 383, 34 S.Ct. 341 (1914). See Fraenkel, "Recent Developments in the Federal Law of Searches and Seizures," 33 IOWA L. REV. 472 (1948), and Ramsey, "Acquisition of Evidence by Search and Seizure," 47 MICH. L. REV. 1137 (1949).

⁵ *Connolly v. Medalie*, (2d Cir. 1932) 58 F. (2d) 629.

⁶ 44 Stat. L. 98 (1926), 26 U.S.C. (1946) §2558(a), provides for the forfeiture of such goods. 49 Stat. L. 874 (1935), 26 U.S.C. (1946) §3116, provides that no property rights shall exist in such goods.

⁷ The government's argument in the principal case that the defendant had no standing to suppress the seized evidence because he had no property rights in it was rejected by the Court in *Trupiano v. United States*, 334 U.S. 699, 68 S.Ct. 1229 (1948).

⁸ *Agnello v. United States*, 269 U.S. 20, 46 S.Ct. 4 (1925). *Harris v. United States*, 331 U.S. 145, 67 S.Ct. 1098 (1947), involved seizure of contraband goods (forged draft papers) which were unrelated to the offense for which the arrest was made. However, the seizure was justified and the evidence was admitted because the seizure was incident to a lawful arrest, not because the defendant had no property interest in the seized goods. *Johnson v. United States*, 333 U.S. 10, 68 S.Ct. 367 (1948), indicates that the contraband nature of illegally seized goods does not aid their admission (opium smoking apparatus held not admissible as evidence because acquired by a search without a warrant in connection with an unlawful arrest). *Trupiano v. United States*, supra note 7, excluded illicit distilling equipment obtained by a search and seizure incident to a lawful arrest, the search and seizure being deemed unreasonable because of the practicability of obtaining a warrant beforehand. Overruled by *United States v. Rabinowitz*, 339 U.S. 56, 70 S.Ct. 430 (1950).

lawful arrest, the cases are inconclusive as to whether the contraband nature of the goods will be of any special significance in determining the reasonableness of the search and seizure.⁹ The unconstitutional conduct by government officers to secure evidence, of itself, may be regarded as sufficient to justify exclusion of such evidence irrespective of the defendant's lack of interest in the premises or property involved. However, under existing law as declared by the lower federal courts, the invasion of another's constitutional rights will not give a person standing to object to the admission of evidence.¹⁰ An application of this limitation was avoided by the Court in the principal case; if the Court had determined that the defendant had no interest in the seized narcotics, it is clear that the unreasonable search of the aunts' hotel room would not have given the defendant standing to exclude the evidence. The conclusion in the principal case that the seized narcotics may be excluded as evidence is perfectly consistent with prior cases if it is accepted that the defendant had an interest in the goods. It is submitted that the Court, to find such an interest, undertook a strained interpretation of legislative language which unqualifiedly declared that no property rights shall exist in such goods.¹¹

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⁹ That the Supreme Court might not be as zealous in protecting contraband, see *Harris v. United States*, *supra* note 8, in which the seizure of forged draft cards was deemed reasonable and they were admitted as evidence at least partially because of their contraband nature. For an intimation that the government may use stronger methods to obtain possession of its own property, see *Davis v. United States*, 328 U.S. 582 at 593, 66 S.Ct. 1256 (1946). For an extended discussion, see Ramsey, "Acquisition of Evidence by Search and Seizure," 47 *MICH. L. REV.* 1137 at 1143 (1949).

¹⁰ *Holt v. United States*, (6th Cir. 1930) 42 F. (2d) 103; obiter dictum in *Goldstein v. United States*, 316 U.S. 114, 62 S.Ct. 1000 (1942).

¹¹ 49 Stat. L. 874 (1935), 26 U.S.C. (1946) §3116. Following the provision that "no property rights shall exist" in contraband goods is a provision for the issue of search warrants "for the seizure" of such property. It may be argued that this indicates Congress did not intend to destroy all individual interest in such goods. On the other hand, the purpose of this provision may be merely to facilitate the issue of warrants for the seizure of such goods.