

Case Study Synopsis

1. Chapter: Criminal Law and Procedure
2. Title: 4th Amendment Search and Seizure Law
3. Court: United States Supreme Court
4. Case Name: *Kyllo v. United States*
5. My name: Tim Park
6. Issues: Search and Seizure
7. Summary:

Defendant Kyllo was indicted after a search of his home yielded large amounts of Marijuana. The home was searched subject to a warrant issued. The warrant was issued partly on the basis of the results of a scan of the outside of Kyllo's home by a federal agent using a sensory enhancing device to detect heat signatures from the walls and roof of his home consistent with the use of high temperature grow lights. The Supreme Court reversed his conviction stating that the use of the sensory enhancing equipment allowed federal agents to "see" things inside the home that they could not with the naked eye. It was a search subject to the restraints of the 4th Amendment.

Search and Seizure

Danny Lee Kyllo v. United States, 533 U.S. 27 (2001)

Defendant Kyllo was indicted after a search of his home yielded large amounts of Marijuana. The home was searched subject to a warrant issued partly on the basis of the results of a scan of the outside of Kyllo's home by a federal agent using a sensory enhancing device to detect heat signatures from the walls and roof of his home consistent with the use of high temperature grow lights. The Supreme Court reversed his conviction stating that the use of the sensory enhancing equipment allowed federal agents to "see" things inside the home that they could not with the naked eye. It was a search subject to the restraints of the 4th Amendment.

Questions

1. What arguments would you make in favor of allowing law enforcement to use sensory enhancing technology? Would those change if the technology allowed federal authorities to see details inside the home?
2. What arguments would you make on behalf of the defendant?
3. What other facts would you want to know if you were the trial court?
4. Should the 4th Amendment adapt to improvements in technology?
5. Should police be bound to what was possible in 1791?
6. Should the Defendant have an objectively reasonable expectation of privacy in the heat emissions outside of his home?
7. What is the relevance for the Court that the information obtained by the thermal imager could have been seen by the naked eye under certain conditions?
8. Why did the Court remand the case to the District Court instead of reversing the decision?

Danny Lee Kyllo v. United States, 533 U.S. 27 (2001)

United States Supreme Court

FACTS

Defendant Kyllo was indicted after a search of his home yielded large amounts of Marijuana. The home was searched subject to a warrant issued. The warrant was issued partly on the basis of the results of a scan of the outside of Kyllo's home by a federal agent using a sensory enhancing device to detect heat signatures from the walls and roof of his home consistent with the use of high temperature grow lights.

ISSUE

Is the information gained by using the thermal imager a search requiring a warrant?

WHAT HAPPENED AT TRIAL

Kyllo moved to suppress the fruits of the search. After the judge denied the motion, Kyllo entered a conditional guilty plea and appealed to the 9th Circuit Court of Appeals who affirmed the decision of the trial court. The Supreme Court then granted the Defendant's writ of certiorari and reversed.

ARGUMENTS

The government argues that the use of the thermal imager was not a search as the information obtained could have been seen by the naked eye. The government also contends that the defendant has no subjective expectation of privacy on the heat emissions, as he did not try to conceal them in any way.

The defendant contends that the use of the thermal imager was a search as defined by the concurring opinion of Justice Harlan in *Katz v. United States*. He contends that he had a subjective expectation of privacy that was objectively reasonable.

WHO WON

The defendant won. The judgment of the Court of Appeals was reversed and the case was remanded back to the District Court.

HOW THE COURT EXPLAINED ITS DECISION

The Court embraced the notion that people had an automatically objective expectation of privacy in their homes that dated back to the time of the 4th Amendment. The Court noted that most warrantless searches of homes were unconstitutional. Justice Scalia, writing for the majority, rejected the argument that the information gleaned from the thermal imager was information that could have been obtained by watching the snow melt off of the roof. The Court said that it might be true that there were other ways to get the information, however that did not allow the government to use improper means.

The Court said that the heat on the roof and the walls of the home was produced inside the home. They did not think it was constitutional for the government to use technology to see what was going on inside the home if they could not see it with the naked eye.

The Court also rejected the contention of the dissent and the government that the heat that was detected was only on the exterior of the building. They focused on the differences in the relative heat of the different rooms of the home. They said that information, even though not detailed, was private and worthy of 4th Amendment protection.

One other argument rejected by the Court was that the imager only detected activities occurring in non-private areas. The government contended that the information obtained was not private intimate details kept secret. The Court said that just because an officer “barely cracks open the front door and sees nothing but the nonintimate rug on the [floor],” does not make it any less private or intimate. The Court stated, “in the home...all details are intimate details.”

The Court firmly based their opinion on the sanctity of the home, and was clearly convinced that the imager could see not only what was emanating from the outside of the home, but what that implied about the details of the interior of the home by reference. The Court clearly

stated that the government couldn't use technology to discern what it could not see without technology. It was a search, and required a warrant.

APPLICATION

1. This case discusses the constitutional application of advanced technology in the investigation of crimes.
2. Why should law enforcement be limited in what technology they can use? If we are all aware of the “state of the art” are we not able to use appropriate means to protect our privacy from new technology?
3. The Court suggests the importance of what methods of investigation were available during the time of the 4th Amendment. Is this a reasonable basis?
4. If the heat had discolored the paint on the outside of the home, and that had been the basis of the search warrant, would the case have come out the same?
5. What does this case mean for the use of bomb sniffing dogs at airports? Surely, people have a reasonable expectation of privacy in their bags and the dogs can sense what cannot be seen with the naked eye.

121 S.Ct. 2038

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150 L.Ed.2d 94, 1 Cal. Daily Op. Serv. 4749, 2001 Daily Journal D.A.R. 5879, 14 Fla. L. Weekly Fed. S 329, 2001 DJCAR 2926

(Cite as: 533 U.S. 27, 121 S.Ct. 2038)

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Supreme Court of the United States

Danny Lee KYLLO, Petitioner,

v.

UNITED STATES.

No. 99-8508.

Argued Feb. 20, 2001.

Decided June 11, 2001.

After unsuccessfully moving to suppress evidence, defendant entered conditional guilty plea to manufacturing marijuana and appealed. Following remand, 37 F.3d 526, the United States District Court for the District of Oregon, Helen J. Frye, J., again denied suppression motion, and defendant appealed. The Ninth Circuit Court of Appeals, 190 F.3d 1041, affirmed. Certiorari was granted. The United States Supreme Court, Justice Scalia, held that: (1) use of sense-enhancing technology to gather any information regarding interior of home that could not otherwise have been obtained without physical intrusion into constitutionally protected area constitutes a "search," and (2) use of thermal imaging to measure heat emanating from home was search.

Reversed and remanded.

Justice Stevens filed a dissenting opinion, in which Chief Justice Rehnquist and Justices O'Connor and Kennedy joined.

West Headnotes

[1] Searches and Seizures ⇌23

349k23 Most Cited Cases

With few exceptions, the question whether a warrantless search of a home is reasonable and hence constitutional must be answered no. U.S.C.A. Const.Amend. 4.

[2] Searches and Seizures ⇌13.1

349k13.1 Most Cited Cases

[2] Searches and Seizures ⇌21

349k21 Most Cited Cases

Obtaining by sense-enhancing technology any information regarding the interior of a home that could not otherwise have been obtained without physical intrusion into a constitutionally protected area, constitutes a "search"--at least where the technology in question is not in general public use. U.S.C.A. Const.Amend. 4.

[3] Controlled Substances ⇌128

96Hk128 Most Cited Cases

(Formerly 138k185(1) Drugs and Narcotics)

[3] Searches and Seizures ⇌13.1

349k13.1 Most Cited Cases

Police engaged in unlawful "search" when they used thermal imaging device without warrant to scan home to determine whether heat emanating from home was consistent with use of high-intensity lamps employed in indoor marijuana growing operation. U.S.C.A. Const.Amend. 4.

[4] Searches and Seizures ⇌13.1

349k13.1 Most Cited Cases

Use of thermal imaging devices to gather information about heat in home's interior is not removed from scope of Fourth Amendment search merely because device captures only heat radiating from external surface of house, and thus involves "off-the-wall" rather than "through-the-wall" observation. U.S.C.A. Const.Amend. 4.

[5] Searches and Seizures ⇌13.1

349k13.1 Most Cited Cases

Information gathered through use of thermal imaging to measure heat emanating from exterior of home is product of a search even if relevant information regarding heat use in interior of home must be inferred from information provided by device. U.S.C.A. Const.Amend. 4.

[6] Controlled Substances ⇌128

96Hk128 Most Cited Cases

(Formerly 138k185(1) Drugs and Narcotics)

[6] Searches and Seizures ⇌37

349k37 Most Cited Cases

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