



The Case of Billy Greenwood

This case raises important Fourth Amendment questions. The Fourth Amendment says, “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.” This case raises the question of when the examination of people’s trash by police is a search and seizure under the Fourth Amendment. If the government obtains evidence in a way that violates the constitution then the exclusionary evidence rule applies, and the evidence cannot be used against a defendant, unless a narrow exception applies.

The 1967 Supreme Court case *Katz v. United States* (1967) 389 U.S. 347 sets out the test to determine if a search and seizure violates the Fourth Amendment. *Katz v. United States* involved the government placing a recording device in a public phone booth to record the calls of the defendant who they suspected of placing illegal bets from the phone booth. The court held that placing a wiretap into a public phone booth to listen to the defendant’s conversation violated his expectation of privacy and was a search and seizure within the meaning of the Fourth Amendment. The test the court came up with and applied in this case, has been applied to Fourth Amendment cases since, to determine whether the government has conducted a search and seizure under the Fourth Amendment is (1) whether the person has shown a subjective expectation of privacy in the object searched or seized; and (2) whether society views that expectation as reasonable.

The 1961 Supreme Court case *Mapp v. Ohio* (1961) 367 U.S. 643 held that the exclusionary evidence rule applied to evidence gathered through an unreasonable search and seizure in violation of the Fourth Amendment. In *Mapp*, the police entered and searched the defendant’s home without a search warrant, and seized books and photos that were introduced against the defendant during a criminal trial for the possession of lewd and obscene material in violation of Ohio state laws. The Supreme Court reasoned that the evidence obtained during the search, which violated the Fourth Amendment, could not be used against the defendant in a state criminal trial.

Billy Greenwood lived in Laguna Beach, California. Early in 1984, police there received information that Greenwood was a drug dealer. The information came from a federal drug enforcement agent who had been told by a criminal suspect that a large shipment of narcotics was on its way to Greenwood's house in a truck. In addition, one of Greenwood's neighbors complained to police about a large number of vehicles passing through the neighborhood late at night and stopping briefly at the Greenwood residence. The police watched Greenwood's house and verified what the neighbor had said. Police saw a truck leave the house and followed it to another residence that they had previously investigated as a drug dealing location. The police did not believe that they could get a search warrant without further evidence, however. The criminal informant was not seen as reliable.

On April 6, 1984, police investigator Jenny Stracner, who had been working on the case for several months, asked the trash collector in Greenwood's neighborhood to pick up the plastic garbage bags that Greenwood placed on the curb in front of his house and to give her the bags without mixing their contents with refuse from other houses. The trash collector complied with her request. When Stracner searched through Greenwood's trash, she found items related to use of narcotics. She used this information to obtain a search warrant to search Greenwood's home.

When police officers searched Greenwood's home, they discovered quantities of cocaine and hashish. Greenwood and another person, Dyanne Van Houten, were arrested on felony narcotics charges but were released after they posted bail.

Neighbors continued to report that many late night visitors still came to the Greenwood house. On May 4, 1984, another investigator, Robert Rahaeuser, again asked Greenwood's regular trash collector to obtain Greenwood's trash. Again, the investigator found evidence of narcotics use. Rahaeuser secured another search warrant for Greenwood's home based on the information from the second trash search. During the second search of Greenwood's house police found additional narcotics and evidence of narcotics trafficking. The police arrested Greenwood again.

Greenwood's lawyers argued that the search of his trash was unconstitutional and that the evidence obtained from the trash search and the subsequent search of his house should be excluded from the trial court. The Fourth Amendment provides protection to the owner of every container that conceals its contents from plain view. Greenwood's trash bags were opaque (not see through), and sealed. All that Greenwood exposed to the public were the exteriors of several opaque sealed containers. Until the trash bags were opened by the police their contents were hidden from the public, so Greenwood had a reasonable expectation of privacy in their contents.

He said that police would not have had probable cause for a warrant to search his house if they had not first obtained evidence illegally by searching his trash. Just because the trash was being turned over to the third party trash collectors does not make its contents less private and less deserving of protection under the Fourth Amendment. A person's trash tells you a lot about someone, such as eating, reading, recreation habits; details about sexual practices, health, personal hygiene, professional status, political affiliations, private thoughts, personal relationships, and romantic interests. These are areas the Fourth Amendment was designed to protect, so society should recognize a reasonable expectation to privacy in one's trash left at the curb in sealed opaque bags.

Greenwood also said that the trash collector was acting as an agent of the police and at the request of the police when he singled out Greenwood's trash from other trash. Scrutiny of another's trash is contrary to the commonly accepted notions of civilized behavior, and thus society should accept that there is a reasonable expectation of privacy in one's trash, since people generally do not scrutinize others' garbage. The bags were only left on the street temporarily before the scheduled trash pickup, meaning there was little likelihood that they would be inspected by anyone. Thus, Greenwood was justified in having a reasonable expectation of privacy in the contents of his trash bags.

The State of California argued that Greenwood's trash was collected on the street where it had been left for the trash collector. The trash was not on Greenwood's property, but rather was on the street. This is an area where the trash was available for public inspection and accessible to animals, children, scavengers, snoops, and other members of the public, so Greenwood could not have a reasonable expectation of privacy in the contents of his trash left on the curb. The trash was placed on the curb with the expectation that it would be picked up by the third party trash collectors. Once the trash collectors picked up the trash they would be free to search it or allow others to search it, as they did in this case with the police, so Greenwood could not have a reasonable expectation of privacy in the trash he was turning over to a third party. Someone who leaves garbage in an area particularly suited for public inspection (the curb) with the main purpose of having strangers take it (trash collectors), cannot have a reasonable expectation of privacy in the items they have discarded.

Under these circumstances Greenwood had left his trash in plain sight and had no reason to expect that his trash would remain private. What a person knowingly exposes to the public, even in his or her own home or office, is not subject to Fourth Amendment protection. Here, Greenwood knowingly exposed his trash to the public by putting out on the curb, on the curtilage or the area immediately surrounding his dwelling, so his trash is not subject to Fourth Amendment protection. Police should not be expected to avert their eyes from evidence of criminal activity that could be observed by any member of the public. Since the trash was available on the curb for any member of the public to observe, Greenwood could not have had a reasonable expectation of privacy in it, and the police should not be obligated to ignore it. Therefore, the State of California claimed that its case against Greenwood was valid and so was the evidence.

The California Court of Appeals agreed with Greenwood and so did the California Supreme Court. Finally, the State of California appealed the case to the United States Supreme Court. It asked the Supreme Court to decide whether the rights of Greenwood and Van Houten had been violated in searching the trash in front of the house.

The Greenwood case raises an important question about the exclusionary rule and about the privacy of a citizen's trash: **At what point may police search your trash without a warrant?**

After it is wrapped and tied in opaque garbage bags?

After it has been placed at the street for collection?

After it has been picked up by a trash collector?

A Case in Point: You Decide

After reviewing the Greenwood case, the members of the class will serve as Supreme Court justices and petitioners.

As attorneys, you are responsible for presenting the court with sound arguments.

If you represent the Petitioner (the State of California), you will argue that the evidence seized in Greenwood's trash should not be excluded from consideration at trial.

If you represent the Respondent (Greenwood) you will argue that the evidence seized in Greenwood's trash should be excluded at trial.

To prepare your argument, work with your team by considering and writing responses to the following:

- A clear, brief statement of your position.
- At least two facts from the case which support your position.
- An explanation of how each fact supports your position.
- One previous court decision which supports your position.

- One reason why your position is fair to the State or Greenwood.
- One reason why a Court decision in your favor will benefit society.

Take notes and decide which team member will present the information. Finally, assign at least one team member to answer the justices' questions. He or she should prepare by carefully reviewing the case description.

Justices' Instructions

When preparing to hear arguments, Supreme Court Justices review documents with their clerks about a case and identify the questions they want to ask the attorneys. Working with your team, write down the following information:

- What don't you understand about California v. Greenwood?
- What facts do you want clarified?
- Which of their clients' actions would you like the attorneys to justify or explain?

Justices also prepare by reviewing previous court decisions. Which of the cases you read about in "The Exclusionary Rule" could be applied to this case? Remember, when you make your decision about California v. Greenwood you must consider these precedents, but you are not bound by them.

The Judgment

What were the strongest arguments presented by the attorneys for the State of California? What information or argument would have improved their case?

What were the strongest arguments presented by the attorneys for Greenwood? What information or argument would have improved their case?

What were the key questions asked by the justices? What other questions, if any, should they have asked? During their conference, what arguments did they consider? Did they ignore any important arguments?

Does the justices' decision expand or restrict the exclusionary rule? Why? Do you agree with their decision?

U.S. Supreme Court decisions are made by a process similar to one you just tried, except:

Attorneys for the Petitioner and Respondent must give the Court detailed written arguments, called briefs, before the case is heard. Because Supreme Court decisions set precedents which affect the entire nation, other interested parties can air their views about a case in Friend-of-the-Court briefs.

During oral arguments, each side is allowed one half hour which includes questioning by the Court. This time limit is strictly enforced.

When the Court reaches a decision, the Chief Justice assigns one of the judges to write an explanation of that decision called the **majority opinion**. Justices who support the decision but differ with the majority's reasoning may write a concurring opinion. At least one of the judges who disagree with the decision will write a **dissenting opinion**.

Do you think this process is fair? Why or why not?

Your teacher will explain the Supreme Court's decision in California v. Greenwood. Compare both the judgment and the reasoning behind it with your own.

Your Opinion

Write a short essay supporting or refuting the statement: *The Supreme Court made a wise decision in the California v. Greenwood case.*

In organizing your essay:

- Indicate whether you support or refute the decision of the Court.
- Quickly summarize the Greenwood case.
- List two facts which support your statement.
- Cite a previous court case that supports your statement.
- Develop an argument for fairness which supports your statement.
- Develop an argument to demonstrate how this benefits society.
- Do not sign your name. Your teacher will give you an ID number to use instead. All papers will be read and critiqued by three students using the student critique sheet.