

# Federal criminal law debate

[Law](#), [Criminology](#)



**Issue:**

Whether or not an individual may be prosecuted under state criminal law when federal regulations cover the same behavior and the federal penalties are much less?

**Rule:**

The rule applicable in the case at bar is the Supremacy Clause contained in Article VI of the Constitution which provides “ This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

**Analysis:**

It is clear from the Supremacy Clause that federal law shall at all times be superior to state law. This means that whenever there is a conflict between the two, it is federal law that should be made to apply. Parenthetically, whenever a state law conflicts with a federal law the former may be declared as invalid. Since the case against Sabine Consolidated, Inc., and its president, Joseph Tantillo is covered by both federal and state criminal laws, the prosecution must be based on the federal law since there is an apparent incongruity between the two.

**Conclusion:**

The patent idea that the Supremacy Clause imparts is that whenever a state law conflicts with federal law, the latter shall prevail. It is therefore clear that an individual cannot be prosecuted under a state criminal law when federal regulations cover the same behavior and there is a difference in the penalties prescribed by both statutes.

Issue:

Whether or not knowledge of the permit requirement is a condition precedent for a valid conviction under the Resource Conservation and Recovery Act (RCRA)?

Rule:

Ignorance of the law excuses no one from compliance therewith. This is the rule applicable in the case at bar which holds that persons are presumed to know the law and should therefore cannot escape liability by feigning ignorance thereof. A person who is uninformed of a law should still be held accountable for violation thereof and should not be allowed to get impunity because of his ignorance.

Analysis:

Dean's allegation that the government did not prove that he knew of the permit requirement should not be allowed to prosper. He is engaged in a business or industry that deals with hazardous chemicals, an undertaking that may be considered as uncommon, he should have put it upon himself to be acquainted with the law covering such venture. Well settled is the rule that persons who are engaged in any enterprise considered as beyond what

is ordinary for a common person should make themselves knowledgeable of the statutes essential to engage in such an enterprise.

#### Conclusion:

Dean is presumed to have known of the permit requirement in consonance with the public policy that “ignorance of the law excuses no one.” The government therefore does not need to prove that he knew of the permit requirement.

#### Issue:

Whether or not the warrantless search made against Houghton violated her right against unreasonable searches and seizure?

#### Rule:

The rule applicable in the case at bar is the fourth amendment to the United States Constitution which provides “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.”

#### Analysis:

The search made against Houghton was made after the car she was riding was stopped for speeding and the police noticed a hypodermic syringe in the pocket of the driver. Although normally a warrant is needed to effect searches, a warrantless search may also be made when the person was

apprehended and the police officers has reason to believe that the person is committing or has just committed a crime.

Conclusion:

The search made in the case at bar was contemporaneous to the lawful flagging by an officer of the car wherein Houghton was a passenger. The officer's action in searching the purse was spurred by probable cause. There was therefore no violation of the Fourth Amendment rights of Houghton.

Issue:

Whether or not the corporation, franchised dealers and subsidiaries are not considered as “ enterprise” under Racketeer Influenced and Corrupt Organization (RICO)?

Rule:

RICO makes it unlawful to “ conduct or conspire to conduct an enterprise whose activities affect interstate commerce by committing or agreeing to commit a pattern of racketeering activity. Under the Act, “ enterprise” includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

Analysis:

Chrysler's allegation that the entities involved did not constitute an “ enterprise” is misplaced. It is very clear from the definition provided in RICO that enterprise include corporation and even groups or individuals who associated in fact although not a legal entity. Chrysler Corporation, its

franchised dealers and subsidiaries fall squarely to the definition of “enterprise” in the RICO Act.

#### Conclusion:

The entities involved in the case should be considered “enterprise” as defined in the RICO Act. Chrysler’s assertion should therefore be considered as not valid.

#### Source

Brown, George D., " Constitutionalizing the Federal Criminal Law Debate: Morrison, Jones, and the ABA" . University of Illinois Law Review, Vol. 2001, November 2001 Available at SSRN: [http://ssrn.com/abstract= 293202](http://ssrn.com/abstract=293202) or DOI: 10. 2139/ssrn. 293202