Assignment six

Name: Lecturer: Course: Date: Assignment Six Question 1 It is a requirement of the fourth amendment that warrants should have and in particular describe what is to be searched and seized. This prevents the seizure of an item that is not within the warrant of search (Thomas H.

Robert and Associates n. d.). Further, under the amendment, it is stated that a search warrant that describes intoxicating liquors as well as articles or papers about their manufacture does not mean seizure of the ledgers accounts and other papers. However, officers are allowed to seize them if the person to be arrested is found in immediate possession of articles proving the criminal activity (Harr, Hess, and Orthmann 285). In the Marron v. United States, the defendant had leased an entire floor where a search warrant for intoxicating liquor and articles proves the crime.

Several evidences were found including a large consignment of liquor in a closet and some ledger accounts. Therefore, since the articles seized proved that retailing of intoxicating liquor went on there, it was admissible in a court of law (Legal Information Institute 2013). On the other hand, the case of Marshall v. Barlow’s Inc. elicits a different scenario where OSHA wanted to search the business premises without a warrant at first. The amendment protects not only private property but also commercial property where employees are not to be subjected to unwarranted searches that have no basis. Question 2 In the case of New Jersey v. TLO, 469 U.

S. 325 (1985) the court held that the school officials did not violate the rights of the student stipulated in the fourth amendment. The two girls were caught smoking in the bathroom which was prohibited since there was a smoking

zone. However, one of the girls, the defendant, refused to admit this which led to the search of her purse that concealed evidence for cigarettes and other drugs (Case Briefs 2013). The presence of packaging papers raised further suspicion that made the principal search further until he found marijuana.

In this case, the fourth amendment was not violated since there was enough reasons to search her purse for evidence. Further, the court held that since the requirement of a search warrant would make admission of discipline in a school long and tedious, it was not necessary while searching a person under school authority (Harr, Hess, and Orthmann 305). On the other hand, the case of Unified School District v. Redding violated the rights of the student since there was not enough reason to conduct a strip search. No suspicion showed that she could have hidden the drugs in her clothes, and the strip search violated even international human rights law (aclu.

org 2010) in comparison to Colorado v PEA, 754 P. 2d 382 (1988). Question 3 In a search for weapons through frisking a suspect, police officers are allowed to seize contraband if they identify it through plain feel during the frisking. In the case of Minnesota V. Dickerson (1993), a police officer in a lawful frisk of a suspect felt a substance in his front pocket that he did not immediately recognize at plain feel/touch (Case Law 4 Cops n. d.

). With suspicion, he went ahead to squeeze and slide in order to realize it was contraband. The court held that it was not admissible in a court of law as evidence since the police officer had done more than a plain feel. However, the court made a new law stating that if the police in a lawful frisking feel

that something is suspicious, they have a right to investigate further (Harr, Hess, and Orthmann 295).

On the other hand, plain view evidence is the one collected just by observing under normal circumstances. However, three conditions must be present. They include legal presence of police officers, plainly observable items during normal activities, and items should be immediately observable. In the case of the United States v. Haley, it was held that odor was enough to bring contents or items into plain view (Case Law 4 Cops n. d.).

Question 4 In the case of Chimel v. California, it was held that the fourth and fourteenth amendment rights of the defendant were violated since a search that is an incident to an arrest is limited only to the surrounding area of immediate control by the suspect. This does not mean the whole house. This is comparable to Maryland v. Buie, 494 U. S. 325 (1990), where a police officer collected evidence after the suspect was arrested without a warrant (Justia.

com 20113). This was considered within plain view doctrine since the evidence was plainly visible and was within the area where the arrest was made or where the suspect was before arrest. The limitation of this dissident comes in where one is only supposed to search just within the area a suspect can control during arrest.

Question 5 Automobile exemption in searches states that due to the high mobility of vehicles, it would not be reasonable to go for a warrant before searching a vehicle since it is unlikely for the vehicle to remain the same place as on a roadside (Belling Ted 2012). The relevant case is Carroll v.

United States. Hot pursuit, on the other hand, is chasing a suspect into a place that is considered reasonably private and calls for privacy. However, police do have a right to go after when it means preventing destruction of evidence and harm to the offender and the public (Harr, Hess, and Orthmann 302). Relevant case is Welsh v. Wisconsin 1984.

Inventory searches comes in when a vehicle is impounded by the police for the either of the various reasons. Under the custody of the police, the police officers have a right to conduct an inventory search. South Dakota v. Opperman (1976). Abandoned property searches are considered as not protected under the fourth amendment since no reasonable privacy exists.

It can also be an extension of the plain view rule as long as it is visible to everybody (Belling Ted 2012). Hester v. unites states (1924). The open fields' doctrine states that land that is not associated with any use or it is undeveloped does not require a warrant of search. Oliver v. United States (1984). Trash inside cartilage is considered protected under the fourth amendment, and a warrant is required for a search. California v.

Ciraolo (1986). Emergency circumstances apply when the police think there is an exigency and a need to enter a house without a warrant in order to prevent harm. Bringham, City, Utah v. Stuart (2006). Question 6 In the case of the United States v. Jones, the court held that mounting Global Positioning Systems tracking device in a person's vehicle constitutes a search without warrant; therefore, it violates the fourth amendment. This is intrusion of privacy where the government monitored the movement of the person without informing (Harr, Hess, and Orthmann 286).

This is the same with Kyllo’s home where police used scanning devices to monitor the house which is an intrusion of privacy since police are not supposed to search a person’s house without a warrant. Thus, it also amounts to a warrant less search (witkin. com 2012). Question 7 In the case People v. Coates, the police had no probable cause or reason to search the trunk of the vehicle considering that the vehicle had been stopped for a minor traffic offense (Justia. com n. d.

). In this case, the police went ahead to search even the trunk of the vehicle, a place of the driver, and the rear seat. This was a violation of the fourth amendment. Arizona v. Gant involved the arresting of suspects and securing them. Under this circumstance, the police had no right to search the vehicle since there was no reason such as a threat to their safety and destruction of evidence. This is different from the previous case since the arrestees are already secured (Legal Information Institute 2010).

In the case of New York v. Belton, the search is legal as there was probable reason for a search. After the arrest, searching the glove compartment was within the law since the arrestees were within the area to reach the compartment (Harr, Hess, and Orthmann 291). Question 8 In this case, the police officer was supposed to enter the house, talk with the owner briefly, and try to look for any activity proving narcotic events or criminal activity. As such, it only required looking according to the doctrine of plain view without having to speculate further (Harr, Hess, and Orthmann 286).

The police officer had no right to separate the suspects as he did not see anything incriminating to substantiate the connection of the caller and drugs.

Thus, this would be better to leave the house without a search. Thus, the defendant can suppress the evidence collected since it was a warrant less search. He had no probable reason to suspect the members in the house after the first glance.