

Forum 5

constitutional law

Law



These cases bring forth the question of whether electronic eavesdropping should be termed as trespass, and whether it's in violation of a person's "reasonable expectation of privacy" and whether it violates the Fourth Amendment. These cases help us answer these questions by studying the different scenarios where in *Katz v. United States*, there is no physical trespass, whereas in *United States v. Jones*, there is an aspect of the government's physical trespass.

Key words: trespass, Fourth Amendment

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1. Briefly summarize *Katz v. United States*.

Katz v. United States is a case presided by the Supreme Court that discusses the nature of one's "right to privacy" and the constitutionally accepted definition of a "search." This case was decided following a Certiorari from the Supreme Court to the District Court for the Southern District of California to review the case. The petitioner was convicted with transmitting wagering information via a pay booth from Los Angeles to Miami and Boston in violation of a federal statute.

In this case, Charles Katz used a public booth to give out information illegally about gambling and wagering. The FBI however was recording his conversations through an eavesdropping device attached to the exterior of the booth. The court of Appeals sided with the FBI following Katz's conviction arguing that there was no physical intrusion into the booth.

The Supreme Court ruled that the FBI's activities in using technology to listen to the petitioner's words violated the privacy of Katz, privacy upon which he relied upon. The court further expounded that, under the Fourth Amendment, a conversation is protected from unreasonable search and

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seizure if it is made with a reasonable expectation of privacy.

Therefore, wire-tapping counted as a search. Justice Stewart explains the rationale behind their decision was that “ One who occupies [a telephone booth], shuts the door behind him, and pays the toll that permits him to place a call is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world.” (White, Welsh S., and James J. Tomkovicz. *Criminal Procedure: Constitutional Constraints upon Investigation and Proof*. Newark, NJ: LexisNexis Matthew Bender, 2004. (p. 6).)

2. Briefly summarize *United States v. Jones*.

In the case of the *United States v. Antoine Jones*, the government installs a GPS device on Jones' vehicle and monitors its movement in public traffic for 28 days. This investigation was conducted without a warrant. Antoine Jones owned a nightclub in the District of Columbia, with Lawrence Maynard, as manager of the club. In 2004 a joint investigation conducted by the FBI and the Metropolitan Police Department began with Jones and Maynard being suspects of narcotics violations.

It was during this investigation that a GPS installed got installed in Jones vehicle without a valid warrant. This device tracked his movement for 28 days (*United States v. Maynard*, Opinion p. 3, "... tracking [Jones] movements 24 hours a day for four weeks with a GPS device [the police] had installed on his Jeep...") Jones was arrested in late 2005 and filed various appeals, which saw him attend many court sessions. Finally, the federal jury declared him guilty with conspiracy to distribute and to possess with intent to distribute cocaine. Jones argued that his conviction was unfair since the GPS tracker violated the Fourth Amendments's unreasonable search and

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seizure clause.

In August 2010 the Court of Appeal overturned Jones' conviction, holding that the police action was a search because it violated Jones reasonable expectation of privacy. The courts decision stirred serious debates. In June 2011, the Supreme Court granted a petition for a writ of certiorari to resolve two questions, that of violating the Fourth Amendment, and that of violating the respondent's rights by installing a GPS device without his consent. The Supreme Court ruled that the installation of the GPS was indeed a search under the fourth Amendment. However, it did not define whether the search was unreasonable, and whether it required a warrant. The rationale behind this decision is however, disputed by two judges' opinions. Justice Scalia brought forward the aspect trespass and argued that the court did not have to address whether the suspect's reasonable expectation of privacy was violated.

Another important opinion in the decision was that of Justice Sotomayor, her argument was that the issue of trespass was not enough to determine whether the installation of the GPS was a search. She therefore brought forth the argument of the prolonged number of days of monitoring, terming it as a reasonable violation of an individual's expectation of privacy thereby constituting a search.

In conclusion, Sotomayor's argument holds water and thus constitutes a reasonable basis of verdict for the case.

References

Charles Katz v. United States, 389 U. S. 347, 88 S. Ct. 507; 19 L. Ed. 2d 576; 1967 U. S. LEXIS 2

United States v. Antoine Jones, 565 U. S, 132 S. Ct. 945, 565 US __, 181 L.
Ed. 2d 911