Case briefs

Business

Case name: Clapper v. Amnesty International USA Facts: Several groups that felt opposed to the amendments made to the Foreign Intelligence Surveillance Act had challenged the provisions of the new Act in the court. These groups which included attorneys, human rights defenders, and journalist felt that by allowing the government to carry on with electronic surveillance to non-US citizens living outside the United States would be a violation to first and fourth Amendments as well as Article III as outlined in the Federal constitution of the United States. Again, it would have had far reaching effects to the principle of separation of powers. These groups felt that they would gravely be affected as most of their communication internationally required some privacy as well as confidentiality (Liptak, May 21, 2012.

). When this case was brought before a District Court in South of New York, the court ruled in favor of the government holding that the groups had no standing in their challenge, as they were driven by fear and had no tangible proof that they were to suffer under the amended Act. However, in an appellate file by the groups in the US Court of Appeal, the ruling was overturned as the Appeals chamber held that it was in the group’s interest that having suspected an injury, that was a reasonable fear and hence look for better ways to avoid the injury (Savage, May 22, 2012). Procedural history: The petitioner, who was the Director of National Intelligence, argued that the electronic surveillance was important to help curb organised criminal activities that could be planned against the United States. The district judge held the argument that the groups were actually not the target of the Act.

In the Appeals Court however, the argument was not sustainable as the court found that the groups were prone to injuries (Savage, May 22, 2012). Issue: Did the trial court consider whether the groups would be affected or likely to be affected by the provisions of the Act, despite the fact that they were not the target of the legislation process? Holding/ Judgement: NO. The trial court made no such observation. In fact they stood by the argument brought by the Director of National Intelligence that the complainants were not targeted and therefore had no basis in their challenge. Pre existing rules: the case cited the rules that pre existed before and formed their judgement on the same The Appeals court held that the constitution and more precisely Article III would have been contravened.

Reasoning: the court reasoned that there existed other proper means of collecting intelligence information as opposed to subjecting everyone to surveillance thereby infringing in their personal rights to privacy. The court held that the government had the capacity to collect intelligence information through legally accepted system and therefore there were no proper grounds in admitting the new amendments that were being made in the Act (Liptak, May 21, 2012.). Dissents/ Concurrences: None Personal comment: the Appeals Chamber having held that the provisions of the Act were likely to breach the constitutional provisions, had adequately protected individual rights to privacy. Unless with a warrant, no state or federal official is allowed to tap phone calls of any citizen as the US constitution clearly protects such rights.

Case name: Kirtsaeng v. John Wiley & Sons, Inc. Facts: dog Enforcement Agency obtained unconfirmed information the respondent, Joelis Jardines;

use his home to grow bhang. In response, they conducted an inspection, without first obtaining a court warrant to do so. They were later to be joined by canine officer who had a drug detecting dog, Franky.

Franky tracked the smell of the bhang which helped the officer get to the drug. Detective William, a different officer who had smelled the odour of marijuana, made knocks on Mr. Jardines door severally but there was no response. He obtained a warrant later in the day and conducted a search which led to the arrest of Jardines (School, 2012). Charges were brought forth against Jardines with count including; trafficking cannabis weighing 25 pounds, and stealing electrical power worth 5, 000 dollars belonging to Florida Power & Light Company. Jardines, made attempts to hold back evidence indicating that since the dog sniffed outside his own compound that amounted to an irrational search in relation to Fourth Amendment.

This was upheld by the court. Furthermore, the court failed to approve of detective William’s argument that he had smelled marijuana as it was only a confirmation of what was already the revelation of the dog (Chemerinsky, 2012). Moreover, the fact that the detective had seen air conditioners was not good enough to establish an issuance of a warrant to search. Florida State then appealed and the ruling was reveersed. It held that this was not part of the Fourth Amendment and that both the office and the dog were at the door of the house belonging to Mr.

Jardines. Further, the judge held that the dog sniffing only assisted in detecting contrabands and an individual has no legitimate private interests in contrabands. Thus the search did not qualify in relation to Fourth

Amendment. On another appeal, FloridaSupremeCourt, overturned the appeal and argued that this was an intrusion by government in sanctity of home and the search qualified under Fourth Amendment (School, 2012).

Procedural history: The petitioner, who was the owner of the home, was making an argument that his personal rights to privacy had been infringed. Issue: Was there a violation of fourth amendment by the police when they used a trained dog to help them establish existence of marijuana without a good reason? Holding and Judgement: The Florida Appeals court held that in essence, the use of a dog to make a search could be classified under Fourth Amendment, and thus the police had violated the said amendment. Pre existing rules: The court cited the pre-existing rules the bases of the final decision, in that a warrant was needed by the police to have conducted such a search. Reasoning: On their part, Florida was making an argument that going by the precedent set by the Supreme Court; a sniff by dog could not amount to search under fourth Amendment. They had based the argument on several cases which includes; city of Indianapolis v. Edmond, Illinois v.

Caballes and United States v. Place. Florida observes that the cases classify dog sniff as a sui generis or very unique since it provides very little information (School, 2012). In the three cases, outlined above, the court held that there were no violation of Fourth Amendment as privacy was observed. Jardines on the other hand states that the three cases could not have qualified under Fourth Amendment as they were not at the door step as was in his case. He therefore urges the court to make the distinction between the cases (Chemerinsky, 2012).

Dissent/ concurrences: None Personal comment: As has been upheld by the court that this compose a search under Fourth Amendment, it is clear that a search should not be conducted without a warrant. If it happens, one should move to the court and seek to have their rights to privacy respected.