

Wolf v. colorado and terry v. ohio

Law



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Wolf V. Colorado And Terry V. Ohio Case Wolf V. Colorado, 388 U. S. 25 When a court is faced with a case deemed as a violation of the Fourth Amendment to the United States Constitution and State law through search and seizure by police of individuals, when deciding whether they crossed the federal constitutional line; the United States Supreme Court takes into consideration state search and seizure practices at the time of the Fourth Amendment's enactment and current state practices. In this regard when interpreting the Fourth Amendment, the court in defining the scope of Federal protection both trusts and mistrusts modern state policing policies, sometimes declaring them unconstitutional while other times oddly using them as a definitive source in the scope of Federal protection (Schulhofer, 2012).

Fact. Thus the doctrine of incorporation is when a court selectively and extensively incorporates the Bill of Rights by its construction of the Due process Clause of the Fourteenth Amendment, by so declaring that federal procedural safeguards applies to state's criminal proceedings.

Issue. In wolf, the Court applied the Fourth Amendment to the states, as opposed to the federal exclusionary rule in which case barring the government from using illegally seized evidence in its case in chief to prove guilt. The issues in this case involved incorporation of the Fourth Amendment and the lack of the need for a rule of exclusion.

Reasoning. The decision of the Court in Wolf and Colorado in 1949 held that the Fourth Amendment applied to the states, and the exclusionary rule did not. By declaring that the Fourth Amendment applied to the states, relied on the incorporation standard articulated in Palko V. Connecticut, a standard likewise cited in the modern Court to decide whether the Due Process Clause of the Fourteenth Amendment protects a newly asserted liberty (Schulhofer, <https://assignbuster.com/wolf-v-colorado-terry-v-ohio/>)

2012).

Case significance. The Wolf's Court strongly defined the Fourth Amendment's fundamentals as protecting a person's "privacy against intrusion by police," a basic right of free society. Unanimously it held that the Due Process Clause of the Fourteenth Amendment incorporated the Fourth Amendment.

Reference

Schulhofer, S. J. (2012). More essential than ever: The Fourth Amendment in the twenty-first century. New York: Oxford University Press.

Terry V. Ohio, 392 U. S. 1

Brief Case Summary. The Petitioner, John W. Terry was stopped by a police officer after the officer observed that the petitioner was 'causing' a store for potential robbery. The petitioner was approached by the officer for questioning and the officer decided to search him first. Acceptably according to the rule of law; a police officer may perform a search for weapons without a warrant, without a probable cause when the officer reasonably believes that the person may be armed and dangerous (Atkin, 2013).

Facts. The officer noticed the petitioner talking to another person in a suspicious manner on a corner of the street while peering periodically in a store window. The men also spoke to a third man. The officer upon approaching, questioning and searching the petitioner, a concealed weapon was produced thus leading to charges of carrying a concealed weapon.

Issue. Is the search by an officer for a weapon without a probable cause for arrest an unreasonable search under the Fourth Amendment to the United States Constitution?

Holding. The Fourth Amendment right against unreasonable searches and seizures, brought into force to the States by the Fourteenth Amendment,

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protects “ people” not “ places”, and as such applies as much to citizens on the streets in as much as home or elsewhere (Atkin, 2013).

Reasoning. Moreover, where a reasonably prudent officer of the law is warranted in the circumstances of a given case in believing that his safety or that of the public is threatened, the officer may make a reasonable search for weapons of the person believed by him to be armed and dangerous.

Case significance. Under normal circumstances, the officer had no probable cause to arrest terry for anything. However, he had made subtly observations that reasonably led his trained and prudent police mind to suspect that Terry was about to commit robbery or burglary. His justifiable suspicion made a proper constitutional ground for accosting Terry, briefly restraining his liberty of movement and questioning him.

Reference

Atkin, M. L. (2013). *Balancing Liberty and Security: An Ethical Study of U. S. Foreign Intelligence Surveillance, 2001-2009*. Lanham: Rowman & Littlefield Publishers.