**Criminal Procedure and the Constitution**

**Rules of Law**

**November 5, 2020**

**Chapter 1 - Criminal Justice Process Overview**

**Tennessee Rules of Criminal Procedure 1-7; TCA 40-7-118**

**County of Riverside v. McLaughlin**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# County of Riverside v. McLaughlin

#### **Rule of Law**

**A judicial determination of probable cause made within 48 hours of arrest is generally sufficiently prompt.**

**Gerstein v. Pugh**

**Rule of Law**

**A defendant charged with a crime by information may not be detained for an extended period of time without a judicial determination of probable cause.**

**November 12, 2020**

**Chapter 9 – Pretrial Release**

**TCA 40-11-101 et seq. (especially 40-11-118)**

**State v. Burgins, 464 S.W.3d 298 (Tenn. 2015)**

**Chapter 2 – The Nature and Scope of Due Process**

**TWEN for parallel provisions of the US and TN Constitutions**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 9 – Pretrial Release**

# \*\*STACK V. BOYLE\*\*

**Rule of Law**

**Bail set at an amount higher than that necessary to assure that the defendant will stand trial and submit to sentence if found guilty, is excessive under the Eighth Amendment.**

**In *Stack v. Boyle*, the Court held that a defendant’s bail amount had to be reasonably calculated on an individualized bases to assure the defendant’s court appearances.**

# \*\*UNITED STATES v. SALERNO\*\*

#### **Rule of Law**

**An arrestee may be detained prior to trial if the government’s regulatory interest in public safety is legitimate and compelling, provided there are procedural protections in place to safeguard the arrestee’s liberty interests.**

**After *United States v. Salerno* upheld the Bail Reform Act, pretrial detention rates have soared in the United States.**

**Schall v. Martin**

# Carlson v. Landon

**State v. Burgins, 464 S.W.3d 298 (Tenn. 2015)**

**State v. Burgins**

#### **Rule of Law**

**The Supreme Court,**[**Sharon G. Lee**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0301682101&originatingDoc=Ifba71850dd5811e481dde0b676a6191e&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Ifba71850dd5811e481dde0b676a6191e)**, C.J., held that right to pretrial bail was not absolute and defendant's alleged commission of criminal activity while released on bond could forfeit the right.**

**Chapter 2 – The Nature and Scope of Due Process**

**Chapter 2 – Section 1 – “Fundamental Rights” and “Incorporation”**

# Rochin v. California

#### **Rule of Law**

**Law enforcement may not procure physical evidence by forcible extraction of a defendant’s stomach contents.**

# McDonald v. City of Chicago

#### **Rule of Law**

**A Bill of Rights guarantee applies to the states if it is fundamental to the nation’s scheme of ordered liberty or deeply rooted in the nation’s history and tradition.**

# District of Columbia v. Heller

#### **Rule of Law**

**Subject to certain safety limitations, the Second Amendment to the United States Constitution creates an individual right to keep and bear arms apart from any military purpose.**

# Betts v. Brady

**Under the Due Process Clause of the Fourteenth Amendment, states are not required to appoint counsel for a criminal defendant unable to secure her own in all cases, provided that the trial is fundamentally fair.**

# Wolf v. Colorado

#### **Rule of Law**

**It is a violation of the Due Process Clause of the Fourteenth Amendment for state actors to gather evidence through unreasonable searches and seizures, but such evidence need not be excluded from state criminal proceedings.**

# Gideon v. Wainwright

#### **Rule of Law**

**The Fourteenth Amendment incorporates the Sixth Amendment right to counsel to the states.**

# Malloy v. Hogan

#### **Rule of Law**

**In state criminal trials, wherever a question arises as to whether a confession is involuntary, the self-incrimination clause of the Fifth Amendment controls the issue.**

# Timbs v. Indiana

#### **Rule of Law**

**The Fourteenth Amendment’s Due Process Clause incorporates to the states those constitutional protections fundamental to ordered liberty and deeply rooted in history and tradition.**

**Chapter 2, Section 2 – the Shift to “Selective Incorporation”**

# \*\*DUNCAN v. LOUISIANA\*\*

#### **Rule of Law**

**The Sixth Amendment right to a jury trial applies to state court proceedings through the Fourteenth Amendment.**

***Duncan v. Louisiana* was an important step in incorporating the Bill of Rights against the states.**

# Maxwell v. Dow

# Palko v. Connecticut

#### **Rule of Law**

**A state law allowing the prosecution to appeal the results of a criminal conviction by jury trial does not violate the Due Process Clause of the Fourteenth Amendment.**

# Snyder v. Commonwealth of Massachusetts

**In Snyder v. Massachusetts, 291 U.S. 97, 78 L. Ed. 674, 54 S. Ct. 330 (1934), the Supreme Court outlined the parameters of a defendant's due process right to be present during trial.**

# Adamson v. California

#### **Rule of Law**

**The Due Process Clause of the Fourteenth Amendment does not prevent a jury from drawing inferences regarding a defendant invoking the Fifth Amendment to refuse to testify at trial.**

# Rochin v. California

#### **Rule of Law**

**Law enforcement may not procure physical evidence by forcible extraction of a defendant’s stomach contents.**

# Williams v. Florida

#### **Rule of Law**

**(1) Requiring a criminal defendant to give notice of an alibi defense and disclose his alibi witnesses to the state prior to trial does not violate the Fifth and Fourteenth Amendments.**

**(2) The Sixth Amendment does not require trial by a jury of exactly 12 people.**

# Ramos v. Louisiana

#### **Rule of Law**

**which the Court ruled that the**[**Sixth Amendment to the U.S. Constitution**](https://en.wikipedia.org/wiki/Sixth_Amendment_to_the_United_States_Constitution)**requires that guilty verdicts for criminal trials be unanimous. Only cases in Oregon and Louisiana were affected by the ruling, because every other state already had this requirement. The decision**[**incorporated**](https://en.wikipedia.org/wiki/Incorporation_of_the_Bill_of_Rights)**the Sixth Amendment requirement for unanimous jury criminal convictions against the states, and thereby overturned the Court's previous decision from the 1972 case**[***Apodaca v. Oregon***](https://en.wikipedia.org/wiki/Apodaca_v._Oregon)**.**

# Gideon v. Wainwright

#### **Rule of Law**

**The Fourteenth Amendment incorporates the Sixth Amendment right to counsel to the states.**

# Malloy v. Hogan

#### **Rule of Law**

**In state criminal trials, wherever a question arises as to whether a confession is involuntary, the self-incrimination clause of the Fifth Amendment controls the issue.**

# New State Ice Co. v. Liebmann

#### **Rule of Law**

**The lower courts had relied on *Frost v. Corporation Commission***[**278**](https://en.wikipedia.org/wiki/List_of_United_States_Supreme_Court_cases,_volume_278)[**U.S.**](https://en.wikipedia.org/wiki/United_States_Reports)[**515**](https://supreme.justia.com/cases/federal/us/278/515/)**(1929) to conclude that a license is not necessary if existing businesses are "sufficient to meet the public needs therein."**[**[1]**](https://en.wikipedia.org/wiki/New_State_Ice_Co._v._Liebmann#cite_note-1)

**The Supreme Court distinguished the case from *Frost*, which was concerned with businesses that grind grain. It found a public interest key to feeding the population that was not comparable to the ice market.**

**Chapter 2, Section 3 – “Free Standing” Due Process**

# Dowling v. U.S.

# Medina v. California

#### **Rule of Law**

**Placing the burden of proof on the defendant in a competency hearing does not violate the Due Process Clause of the Fourteenth Amendment.**

# \*\*DISTRICT ATTORNEY’S OFFICE v. OSBORNE\*\*

#### **Rule of Law**

**The Due Process Clause of the Fourteenth Amendment does not provide a constitutional right to postconviction DNA testing.**

***District Attorney’s Office v. Osborne* reflects the differing perspectives that have often divided the Court in its determination of the independent content of due process.**

# Herrera v. Collins

#### **Rule of Law**

**Federal habeas corpus relief for claims of actual innocence is unavailable if there was no constitutional violation in state criminal proceedings.**

# House v. Bell

#### **Rule of Law**

**A prisoner may seek federal habeas corpus relief for claims procedurally barred under state law in extraordinary cases by showing that based on new evidence, no reasonable juror could find guilt beyond a reasonable doubt.**

# Hamdi v. Rumsfeld

**Due process guarantees that United States citizens held in the United States as enemy combatants must be given a meaningful opportunity to contest the factual basis for that detention before a neutral decision-maker.**

# Brady v. Maryland

#### **Rule of Law**

**Under the Due Process Clause, the prosecution must turn over evidence favorable to the defense upon request if the evidence is material to either culpability or punishment.**

# Powell v. Alabama (Scottsboro Boys Trial)

#### **Rule of Law**

**Due process requires that criminal defendants have the right to counsel both at trial and in the time leading up to trial when consultation and preparation take place.**

# Gideon v. Wainwright

#### **Rule of Law**

**The Fourteenth Amendment incorporates the Sixth Amendment right to counsel to the states.**

# Poe v. Ullman

#### **Rule of Law**

**For a lawsuit to be ripe for adjudication, the injury threatened must be relatively immediate and certain to occur without court intervention.**

**November 19, 2020**

**Chapter 3, Section 1 – Exclusionary Rule**

**State v. Reynolds, 504 S.W.3d 283 (Tenn. 2016)**

**State v. Davidson, 509 S.W.3d 156 (Tenn. 2017)**

**State v. Lowe, 552 S.W.3d 842 (Tenn. 2018)**

# \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Chapter 3, Section 1 – Exclusionary Rule**

# \*\*Wolf v. Colorado\*\*

#### **Rule of Law**

**It is a violation of the Due Process Clause of the Fourteenth Amendment for state actors to gather evidence through unreasonable searches and seizures, but such evidence need not be excluded from state criminal proceedings.**

***Wolf v. Colorado* did not extend the exclusionary rule from federal cases to state criminal cases.**

**Re: *Mapp v. Ohio* overruled Wolf in that the exclusionary rule and the substantive requirements of the Fourth Amendment apply to the states.**

# Weeks v. United States

#### **Rule of Law**

**The United States and federal officials are prohibited from executing unreasonable searches and seizures upon people.**

# \*\*MAPP v. OHIO\*\*

#### **United States Supreme Court 367 U.S. 643 (1961)**

#### **Rule of Law**

**Evidence obtained through an unreasonable search and seizure in violation of the Fourth Amendment is inadmissible in state criminal proceedings.**

**The *Mapp* decision extended the exclusionary rule to state courts.**

# Elkins v. United States

#### **Rule of Law**

# a [US Supreme Court](https://en.wikipedia.org/wiki/US_Supreme_Court) decision that held the "silver platter doctrine", which allowed federal prosecutors to use evidence illegally gathered by state police, to be a violation of the [Fourth Amendment to the United States Constitution](https://en.wikipedia.org/wiki/Fourth_Amendment_to_the_United_States_Constitution).[[1]](https://en.wikipedia.org/wiki/Elkins_v._United_States#cite_note-Elkins-1)

# Rea v. United States

#### **Rule of Law**

**The Supreme Court, Mr. Justice Douglas, held that agent was subject to injunction.**

# Wong Sun v. United States

#### **Rule of Law**

**Although evidence obtained through illegal police conduct must be excluded at trial as it is “fruit of the poisonous tree,” the connection between the illegal police conduct and a relevant piece of evidence can become so attenuated as to dissipate the taint, and such evidence may then be admissible.**

***Wong Sun* was the first case which the Court applied the exclusionary rule to a confession, in addition to physical evidence, tainted by an unconstitutional arrest. The Court also recognized that a confession given after sufficient attenuation from unconstitutional arrest is admissible.**

# Brown v. Illinois

#### **Rule of Law**

**Incriminating statements made following an unlawful arrest are only admissible if the statements, in light of all relevant facts and circumstances, are “sufficiently an act of free will to purge the primary taint.”**

# United States v. Crews

#### **Rule of Law**

# The Supreme Court, Mr. Justice Brennan, held that in-court identification of defendant by victim did not have to be suppressed as fruit of defendant's unlawful arrest where robbery victim's presence in courtroom was not product of any police misconduct and where illegal arrest did not infect her ability to give accurate identification testimony.

# Frisbie v. Collins

#### **Rule of Law**

# The Supreme Court, Mr. Justice Black, held that forcible abduction from one state to another in violation of Federal Kidnaping Act, [18 U.S.C.A. s 1201](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=18USCAS1201&originatingDoc=Id8df72079c1c11d993e6d35cc61aab4a&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default)), would not invalidate subsequent conviction and sentence in latter state of the person abducted on ground of denial of due process of law.

# People v. Defore

**Olmstead v. United States**

#### **Rule of Law**

**The Fourth Amendment does not extend to telephone wires and the telephone calls that travel over them.**

# \*\*UNITED STATES v. LEON\*\*

# Rule of Law

**Evidence obtained in reasonable, good-faith reliance on a facially valid search warrant is not subject to the Fourth Amendment's exclusionary rule, even if the warrant is later deemed defective.**

***Leon* created the good-faith exception to the exclusionary rule. The exception was later expanded to cover other circumstances.**

# Illinois v. Gates

#### **Rule of Law**

**A warrant application satisfies the Fourth Amendment probable cause requirement so long as it establishes a substantial basis for concluding that a search will uncover evidence of wrongdoing.**

# Franks v. Delaware

#### **Rule of Law**

**A search warrant must be voided and any evidence obtained by the warrant excluded from admission at trial when a defendant shows that an affidavit in support of the warrant contains an intentional or reckless false statement and when the affidavit does not support a finding of probable cause in the absence of the false statement.**

# Lo-Ji Sales, Inc. v. New York

#### **Rule of Law**

**A warrant must be issued by a neutral and detached magistrate, based upon probable cause, supported by an oath or affirmation, and it must describe the place to be searched and the person or thing to be seized.**

# Massachusetts v. Sheppard

#### **Rule of Law**

**The exclusionary rule does not apply if the officer conducting the allegedly unconstitutional search acted in objectively reasonable reliance on a warrant that is subsequently determined to be invalid.**

# Illinois v. Krull

#### **Rule of Law**

**The exclusionary rule does not apply to evidence obtained in a search carried out pursuant to a statute subsequently found to be unconstitutional.**

# Davis v. United States

#### **Rule of Law**

**A search conducted in objectively reasonable reliance upon binding appellate precedent that has since been overruled is not subject to the exclusionary rule.**

# Mapp v. Ohio

#### **Rule of Law**

**Evidence obtained through an unreasonable search and seizure in violation of the Fourth Amendment is inadmissible in state criminal proceedings.**

**The *Mapp* decision extended the exclusionary rule to state courts.**

# \*\*HUDSON v. MICHIGAN\*\*

#### **Rule of Law**

**The exclusionary rule does not apply to violations of the knock and announce rule.**

***Hudson* showed that sometimes the social costs of excluding evidence outweigh the benefits.**

# Wilson v. Arkansas

#### **Rule of Law**

**The knock and announce rule is part of the reasonableness test required to assess whether a search was valid under the Fourth Amendment.**

# Richards v. Wisconsin

#### **Rule of Law**

**The Fourth Amendment’s reasonableness requirement incorporates the common law rule that police entering a home must knock and announce their identity and purpose before attempting forcible entry, unless exigent circumstances exist and to do so would undermine law enforcement interest.**

# United States v. Banks

#### **Rule of Law**

**Exigent circumstances exist for forced entry after enough time has passed to make it reasonable to suspect imminent loss of evidence.**

# United States v. Leon

#### **Rule of Law**

**Evidence obtained in reasonable, good-faith reliance on a facially valid search warrant is not subject to the Fourth Amendment's exclusionary rule, even if the warrant is later deemed defective.**

***Leon* created the good-faith exception to the exclusionary rule. The exception was later expanded to cover other circumstances.**

# Pennsylvania Bd. of Probation and Parole v. Scott

#### **Rule of Law**

**The Pennsylvania Supreme Court held that the exclusionary rule will apply in a parole revocation hearing if the officer conducting a search is aware or has reason to be aware of a suspect's parole or probationary status, and lacks reasonable suspicion of a parole violation justifying the search.**

**The Supreme Court, Justice Thomas, held that parole boards are not required by federal law to exclude evidence obtained in violation of the Fourth**

# Mapp v. Ohio

#### **Rule of Law**

**Evidence obtained through an unreasonable search and seizure in violation of the Fourth Amendment is inadmissible in state criminal proceedings.**

**The *Mapp* decision extended the exclusionary rule to state courts.**

# Miranda v. Arizona

#### **Rule of Law**

**Without certain hallmark warnings regarding the right to remain silent and the right to counsel, statements made during custodial interrogation are inadmissible at trial.**

# Monroe v. Pape

#### **Rule of Law**

**42 U.S.C. § 1983 affords a civil cause of action to redress violations of individual constitutional rights by a governmental official.**

# Monell v. Department of Social Services

#### **Rule of Law**

**A local government may be held liable under 42 U.S.C. § 1983 for constitutional rights violations that arise out of matters of official policy.**

# Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics

#### **Rule of Law**

**Violation of the Fourth Amendment by a federal agent gives rise to a cause of action for damages resulting from the violation.**

# Elkins v. United States

#### **Rule of Law**

**The Supreme Court, Mr. Justice Stewart, held that evidence obtained by state officers during a search which, if conducted by federal officers, would have violated defendant's immunity from unreasonable searches and seizures under the Fourth Amendment is inadmissible over the defendant's timely objection in a federal criminal trial.**

# United States v. Janis

#### **Rule of Law**

**The Fourth Amendment may serve as the basis for excluding from a federal criminal trial evidence seized by a federal officer in violation of the Amendment.**

# Arizona v. Evans

#### **Rule of Law**

**The exclusionary rule does not apply to evidence obtained in a search carried out as a result of a clerical mistake of a court employee.**

# Walder v. United States

#### **Rule of Law**

**the United States Supreme Court, Mr. Justice Frankfurter, held that defendant's assertion on direct examination that he had never possessed any narcotics opened the door, solely for purpose of attacking his credibility, to evidence that heroin had been unlawfully seized from him in connection with earlier prosecution.**

# INS v. Lopez-Mendoza

#### **Rule of Law**

**The exclusionary rule does not bar the admission of illegally obtained evidence in a civil deportation proceeding.**

# United States v. Calandra

#### **Rule of Law**

**A witness subpoenaed to testify before a grand jury may not invoke the exclusionary rule as grounds for refusal to answer questions relating to illegally obtained evidence.**

# Stone v. Powell

#### **Rule of Law**

**Federal district courts should not hear habeas corpus petitions based on claims that illegally obtained evidence was admitted at trial if there has been a full and fair review at the state level.**

# Michigan v. Tucker

#### **Rule of Law**

# On certiorari, the Supreme Court, Mr. Justice Rehnquist, held that where police before interrogating a suspect warned the suspect fully except that they failed to advise that he had a right to free counsel if he could not afford to hire counsel, and where at the time of interrogation it had not yet been held that police were obliged to advise a suspect as to his right to free counsel, and where the statements made by the suspect were not admitted at his trial, the trial transpiring after the Supreme Court had upheld the suspect's right to such advice, recourse to the suspect's statements only by use, at his trial, of a witness discovered as a result of the statements was not violative of the Fifth, Sixth or Fourteenth Amendment.

# \*\*HERRING v. UNITED STATES\*\*

#### **Rule of Law**

**Where police personnel act negligently, but not recklessly, and lead an officer to reasonably believe an arrest warrant exists, the evidence obtained pursuant to that unlawful arrest remains admissible.**

***Herring* significantly expanded the scope of the good faith exception to the exclusionary rule.**

# United States v. Leon

#### **Rule of Law**

**Evidence obtained in reasonable, good-faith reliance on a facially valid search warrant is not subject to the Fourth Amendment's exclusionary rule, even if the warrant is later deemed defective.**

***Leon* created the good-faith exception to the exclusionary rule. The exception was later expanded to cover other circumstances.**

# Arizona v. Evans

#### **Rule of Law**

**The exclusionary rule does not apply to evidence obtained in a search carried out as a result of a clerical mistake of a court employee.**

# Pennsylvania Bd. of Probation and Parole v. Scott

# United States v. Calandra

#### **Rule of Law**

**A witness subpoenaed to testify before a grand jury may not invoke the exclusionary rule as grounds for refusal to answer questions relating to illegally obtained evidence.**

# Stone v. Powell

#### **Rule of Law**

**Federal district courts should not hear habeas corpus petitions based on claims that illegally obtained evidence was admitted at trial if there has been a full and fair review at the state level.**

# Illinois v. Krull

#### **Rule of Law**

**The exclusionary rule does not apply to evidence obtained in a search carried out pursuant to a statute subsequently found to be unconstitutional.**

# Massachusetts v. Sheppard

#### **Rule of Law**

**The exclusionary rule does not apply if the officer conducting the allegedly unconstitutional search acted in objectively reasonable reliance on a warrant that is subsequently determined to be invalid.**

# Weeks v. United States

#### **Rule of Law**

**The United States and federal officials are prohibited from executing unreasonable searches and seizures upon people.**

# Mapp v. Ohio

#### **Rule of Law**

**Evidence obtained through an unreasonable search and seizure in violation of the Fourth Amendment is inadmissible in state criminal proceedings.**

**The *Mapp* decision extended the exclusionary rule to state courts.**

# Franks v. Delaware

#### **Rule of Law**

**A search warrant must be voided and any evidence obtained by the warrant excluded from admission at trial when a defendant shows that an affidavit in support of the warrant contains an intentional or reckless false statement and when the affidavit does not support a finding of probable cause in the absence of the false statement.**

**State v. Reynolds, 504 S.W.3d 283 (Tenn. 2016)**

# State v. Reynolds

**Holdings: The Supreme Court held that:**

[**1**](https://1.next.westlaw.com/Document/I5f6513a0a24d11e6bdb7b23a3c66d5b3/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F62040238721)**deputy had probable cause to believe that defendant was under influence of alcohol at time of accident, within meaning of implied consent statute;**

[**2**](https://1.next.westlaw.com/Document/I5f6513a0a24d11e6bdb7b23a3c66d5b3/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F192040238721)**possible adverse affect on defendant of medications that she was given while in emergency room had no bearing on deputy's determination of probable cause;**

[**3**](https://1.next.westlaw.com/Document/I5f6513a0a24d11e6bdb7b23a3c66d5b3/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F202040238721)**defendant's consent to warrantless blood draw was not voluntary;**

[**4**](https://1.next.westlaw.com/Document/I5f6513a0a24d11e6bdb7b23a3c66d5b3/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F372040238721)**warrantless blood draw, in violation of Fourth Amendment and Tennessee Constitution's prohibition against unreasonable search and seizure, came within good faith exception to exclusionary rule; and**

[**5**](https://1.next.westlaw.com/Document/I5f6513a0a24d11e6bdb7b23a3c66d5b3/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F382040238721)**good faith exception to the state exclusionary rule applied to evidence obtained in violation of Constitution.**

**State v. Davidson, 509 S.W.3d 156 (Tenn. 2017)**

**State v. Davidson**

**Holdings: On automatic appeal, the Supreme Court,**[**Lee**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0301682101&originatingDoc=I99b2cb30c69f11e6ac07a76176915fee&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I99b2cb30c69f11e6ac07a76176915fee)**, J., held that:**

[**1**](https://1.next.westlaw.com/Document/I99b2cb30c69f11e6ac07a76176915fee/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad604ac00000175d814268633d2b192%3FNav%3DCASE%26fragmentIdentifier%3DI99b2cb30c69f11e6ac07a76176915fee%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=73f307ea7d564d1ce17f9eef9ea2d678&list=CASE&rank=1&sessionScopeId=f463620c60d6e30418e9a0f1148e8b4e1ad0fdad240d8109740ef151af589845&originationContext=Smart%20Answer&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F192040551579)**evidence seized pursuant to invalid search warrant issued on unsigned affidavit was admissible under good faith exception to suppression requirement;**

[**2**](https://1.next.westlaw.com/Document/I99b2cb30c69f11e6ac07a76176915fee/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad604ac00000175d814268633d2b192%3FNav%3DCASE%26fragmentIdentifier%3DI99b2cb30c69f11e6ac07a76176915fee%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=73f307ea7d564d1ce17f9eef9ea2d678&list=CASE&rank=1&sessionScopeId=f463620c60d6e30418e9a0f1148e8b4e1ad0fdad240d8109740ef151af589845&originationContext=Smart%20Answer&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F232040551579)**defendant's statement to police was not involuntary;**

[**3**](https://1.next.westlaw.com/Document/I99b2cb30c69f11e6ac07a76176915fee/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad604ac00000175d814268633d2b192%3FNav%3DCASE%26fragmentIdentifier%3DI99b2cb30c69f11e6ac07a76176915fee%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=73f307ea7d564d1ce17f9eef9ea2d678&list=CASE&rank=1&sessionScopeId=f463620c60d6e30418e9a0f1148e8b4e1ad0fdad240d8109740ef151af589845&originationContext=Smart%20Answer&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F422040551579)**as a matter of first impression, defendant failed to establish that he was deprived of a fair trial by courtroom spectators' wearing buttons displaying images of the victims;**

[**4**](https://1.next.westlaw.com/Document/I99b2cb30c69f11e6ac07a76176915fee/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad604ac00000175d814268633d2b192%3FNav%3DCASE%26fragmentIdentifier%3DI99b2cb30c69f11e6ac07a76176915fee%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=73f307ea7d564d1ce17f9eef9ea2d678&list=CASE&rank=1&sessionScopeId=f463620c60d6e30418e9a0f1148e8b4e1ad0fdad240d8109740ef151af589845&originationContext=Smart%20Answer&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F652040551579)**expert testimony was admissible;**

[**5**](https://1.next.westlaw.com/Document/I99b2cb30c69f11e6ac07a76176915fee/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad604ac00000175d814268633d2b192%3FNav%3DCASE%26fragmentIdentifier%3DI99b2cb30c69f11e6ac07a76176915fee%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=73f307ea7d564d1ce17f9eef9ea2d678&list=CASE&rank=1&sessionScopeId=f463620c60d6e30418e9a0f1148e8b4e1ad0fdad240d8109740ef151af589845&originationContext=Smart%20Answer&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F922040551579)**evidence supported convictions;**

[**6**](https://1.next.westlaw.com/Document/I99b2cb30c69f11e6ac07a76176915fee/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad604ac00000175d814268633d2b192%3FNav%3DCASE%26fragmentIdentifier%3DI99b2cb30c69f11e6ac07a76176915fee%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=73f307ea7d564d1ce17f9eef9ea2d678&list=CASE&rank=1&sessionScopeId=f463620c60d6e30418e9a0f1148e8b4e1ad0fdad240d8109740ef151af589845&originationContext=Smart%20Answer&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F1022040551579)**trial court's preparation of separate judgment documents for each of the guilty verdicts properly effectuated necessary mergers; and**

[**7**](https://1.next.westlaw.com/Document/I99b2cb30c69f11e6ac07a76176915fee/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad604ac00000175d814268633d2b192%3FNav%3DCASE%26fragmentIdentifier%3DI99b2cb30c69f11e6ac07a76176915fee%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=73f307ea7d564d1ce17f9eef9ea2d678&list=CASE&rank=1&sessionScopeId=f463620c60d6e30418e9a0f1148e8b4e1ad0fdad240d8109740ef151af589845&originationContext=Smart%20Answer&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F1062040551579)**imposition of death penalty was warranted.**

**State v. Lowe, 552 S.W.3d 842 (Tenn. 2018)**

# State v. Lowe

**Holdings: The Supreme Court held that:**

[**1**](https://1.next.westlaw.com/Document/Ifea5f2a08c7911e881e3e57c1f40e5c7/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F62045076763)**statute allowing admission of evidence obtained in violation of procedure rule governing search warrants in cases of good-faith mistake or technical violation was unconstitutional under Separation of Powers Clause;**

[**2**](https://1.next.westlaw.com/Document/Ifea5f2a08c7911e881e3e57c1f40e5c7/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F72045076763)**evidence seized pursuant to search warrant was admissible under good-faith exception to exclusionary rule;**

[**3**](https://1.next.westlaw.com/Document/Ifea5f2a08c7911e881e3e57c1f40e5c7/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F202045076763)**trial court's error in failing to allow defense counsel to make its offer of proof through soliciting testimony from expert in question-and-answer form was harmless;**

[**4**](https://1.next.westlaw.com/Document/Ifea5f2a08c7911e881e3e57c1f40e5c7/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F232045076763)**defense expert witness's proffered opinion would not have substantially assisted the trial court to determine whether defendant's statement to detective was voluntary;**

[**5**](https://1.next.westlaw.com/Document/Ifea5f2a08c7911e881e3e57c1f40e5c7/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F272045076763)**defendant was not in custody at the time she made statement to detective at police station, that she had given birth to two infants, rather than just one; and**

[**6**](https://1.next.westlaw.com/Document/Ifea5f2a08c7911e881e3e57c1f40e5c7/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)#co_anchor_F302045076763)**defense expert's testimony about the reliability of defendant's confession to detective in light of detective's interviewing technique was inadmissible.**

**December 3, 2020**

**Chapter 3, Section 2 – Protected Areas/Interests**

# \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# \*\*KATZ v. UNITED STATES\*\*

#### **Rule of Law**

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

***Katz v. United States –* Justice Harlan’s two-part test for the reasonable expectation of privacy has been especially influential.**

# Olmstead v. United States

#### **Rule of Law**

**The Fourth Amendment does not extend to telephone wires and the telephone calls that travel over them.**

# United States v. Place

#### **Rule of Law**

**When police seize luggage from a suspect’s custody, the limitations applicable to investigative detentions of the person himself should define the permissible scope of an investigative detention of the person’s luggage on less than probable cause.**

# Soldal v. Cook County

# Rakas v. Illinois

#### **Rule of Law**

**A passenger in a car belonging to someone else does not have a legitimate expectation of privacy in the car or in items found in the car that do not belong to him and thus may not challenge the search of the car or seizure of the items as unconstitutional.**

# Berger v. New York

#### **United States Supreme Court 388 U.S. 41 (1967)**

#### **Rule of Law**

**A wiretap violates the Fourth Amendment unless its authorization is based on a detailed factual affidavit alleging the commission of a specific crime, and is for the limited purpose of ascertaining the truth of the affidavit’s allegations.**

# \*\*CALIFORNIA v. GREENWOOD\*\*

#### **Rule of Law**

**The warrantless search of trash left outside on the curb does not violate the Fourth Amendment, because a person has no reasonable expectation of privacy in trash left for collection in a publicly accessible place.**

***California v. Greenwood* – a person loses his or her expectation of privacy for trash bags placed on the curb for pick-up by a trash collector.**

# People v. Krivda

# Katz v. United States

#### **Rule of Law**

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

# Smith v. Maryland

#### **Rule of Law**

**A person has no legitimate expectation of privacy in information that the person voluntarily turns over to third parties.**

# Chapman v. United States

# Stoner v. California

# O’Connor v. Ortega

# \*\*FLORIDA v. RILEY\*\*

#### **Rule of Law**

**Aerial observation of an area within the curtilage of a home from a helicopter at an altitude of 400 feet is not a search requiring a warrant under the terms of the Fourth Amendment.**

***Florida v. Riley* shows a police officer’s observation of a person’s home from a helicopter generally isn’t a search if flown in a manner consistent with FAA regulations.**

# California v. Ciraolo

#### **Rule of Law**

**The warrantless police observation of an enclosed area within the curtilage of a home from an airplane at an altitude of 1,000 feet does not intrude upon any constitutionally protected reasonable expectation of privacy.**

# Bond v. United States

#### **Rule of Law**

**The physical manipulation of a bag on a public bus is a type of search that violates the Fourth Amendment.**

# Oliver v. United States

#### **Rule of Law**

**Under the open fields doctrine, a field may be entered and searched without probable cause or a warrant.**

# United States v. Jones

#### **Rule of Law**

**The warrantless placement of a GPS tracking device on the undercarriage of an individual’s vehicle in order to track the person’s movements on public streets constitutes an unlawful search in violation of the Fourth Amendment.**

# Katz v. United States

#### **Rule of Law**

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

# Alderman v. United States

#### **Rule of Law**

**A defendant in criminal proceedings does not have standing to demand exclusion of evidence obtained in violation of another person’s constitutional rights.**

# Soldal v. Cook County

# United States v. Knotts

#### **Rule of Law**

**Monitoring the signals of a beeper to track the movements of a car does not constitute a search requiring a warrant under the Fourth Amendment.**

# United States v. Karo

#### **Rule of Law**

**(1) A party unknowingly receiving a container containing a tracking device does not constitute a Fourth Amendment seizure. (2) The continued monitoring of a tracking device inside multiple private places constitutes a Fourth Amendment search.**

# \*\*CARPENTER v. UNITED STATES\*\*

#### **Rule of Law**

**The mail-fraud statute is not limited to protecting tangible property rights.**

**In *Carpenter v. United States*, the Court was split on the conviction for the violation of the Securities Exchange Act and left the Second Circuit decision in place.**

# United States v. Jones

#### **Rule of Law**

**The warrantless placement of a GPS tracking device on the undercarriage of an individual’s vehicle in order to track the person’s movements on public streets constitutes an unlawful search in violation of the Fourth Amendment.**

# United States v. Miller

#### **Rule of Law**

**Bank customers have no reasonable expectation of privacy in their bank records.**

# Smith v. Maryland

#### **Rule of Law**

**A person has no legitimate expectation of privacy in information that the person voluntarily turns over to third parties.**

# Katz v. United States

#### **Rule of Law**

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

# United States v. Knotts

#### **Rule of Law**

**Monitoring the signals of a beeper to track the movements of a car does not constitute a search requiring a warrant under the Fourth Amendment.**

# Olmstead v. United States

#### **Rule of Law**

**The Fourth Amendment does not extend to telephone wires and the telephone calls that travel over them.**

#### **Oklahoma Press Publishing Co. v. Walling**

# United States v. Jones

#### **Rule of Law**

**The warrantless placement of a GPS tracking device on the undercarriage of an individual’s vehicle in order to track the person’s movements on public streets constitutes an unlawful search in violation of the Fourth Amendment.**

# Katz v. United States

#### **Rule of Law**

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

# \*\*FLORIDA v. Jardines\*\*

#### **Rule of Law**

**Using a drug-sniffing dog on a homeowner's porch to investigate the contents of the home is a search within the meaning of the Fourth Amendment.**

***Florida v. Jardines* – taking a drug dog onto the curtilage of a person’s home to detect drug odors without a warrant violates the Fourth Amendment.**

# Katz v. United States

#### **Rule of Law**

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

# Silverman v. United States

# United States v. Place

#### **Rule of Law**

**When police seize luggage from a suspect’s custody, the limitations applicable to investigative detentions of the person himself should define the permissible scope of an investigative detention of the person’s luggage on less than probable cause.**

#### **United States v. Jacobsen**

# Illinois v. Caballes

#### **Rule of Law**

**The Fourth Amendment does not require reasonable, articulable suspicion to administer a canine sniff test during a routine traffic stop.**

**Collins v. Virginia**

# California v. Carney

#### **Rule of Law**

**Under the Fourth Amendment, a vehicle that can be readily moved and that has a reduced expectation of privacy due to its use as a licensed motor vehicle may be searched without a warrant provided probable cause exists.**

# Kyllo v. United States

#### **Rule of Law**

**Law enforcement's use of sense-enhancing technology to see details of a private home that would not be discoverable without physically entering the home constitutes a Fourth Amendment search.**

# \*\*UNITED STATES v. WHITE\*\*

#### **Rule of Law**

**The Fourth Amendment right against unreasonable searches and seizures does not protect people from their misplaced expectations of trust and therefore there is no Fourth Amendment search and seizure when the person the defendant is speaking with is secretly a government agent or an informant wearing a wire and recording what is being said.**

***White* permits police officers to listen to a suspect’s conversations with a police informant wearing a wire.**

# Katz v. United States

#### **Rule of Law**

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

# Hoffa v. United States

#### **Rule of Law**

**The Fourth Amendment does not protect a wrongdoer’s misplaced belief that a person to whom he voluntarily confides his wrongdoing will not reveal it.**

**Desist v. United States**

# Zurcher v. Stanford Daily

#### **Rule of Law**

**It does not violate constitutional protections to issue a search warrant for the offices of a newspaper even though the object of the search could be demanded through the issuance of a subpoena duces tecum.**

**December 10, 2020**

**Chapter 3, Section 3 – Probable Cause**

**State v. Tuttle**

**Chapter 3, section 4 - Search Warrants**

**Tenn R. Crim. P. 41**

**TCA 40-6-101 through 108**

**Franks v. Delaware**

**State v. Little**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# \*\*SPINELLI v. UNITED STATES\*\*

#### **Rule of Law**

**An affidavit that lacks sufficient detail to explain why an informant is reliable and how he came to his conclusions does not provide the necessary probable cause to obtain a search warrant.**

***Spinelli* and *Aguilar* were later overruled and the courts adopted the totality-of-the-circumstances approach.**

# Aguilar v. Texas

#### **Rule of Law**

**Evidence obtained pursuant to a warrant supported only by the beliefs or suspicions of an unidentified informant is not admissible in criminal proceedings.**

**Nathanson v. United States**

**Draper v. United States**

# \*\*ILLIONOIS v. GATES\*\*

#### **Rule of Law**

**A warrant application satisfies the Fourth Amendment probable cause requirement so long as it establishes a substantial basis for concluding that a search will uncover evidence of wrongdoing.**

***Gates* introduced a more flexible standard for probably cause based on an anonymous tip.**

# Spinelli v. United States

#### **Rule of Law**

**An affidavit that lacks sufficient detail to explain why an informant is reliable and how he came to his conclusions does not provide the necessary probable cause to obtain a search warrant.**

# Florida v. Harris

#### **Rule of Law**

**Probable cause to search exists when the totality of the circumstances causes a reasonably cautious person to believe that contraband or evidence of a crime is present.**

**Jones v. United States (1960)**

**Kerr v. California**

**Nathanson v. United States**

# Aguilar v. Texas

#### **Rule of Law**

**Evidence obtained pursuant to a warrant supported only by the beliefs or suspicions of an unidentified informant is not admissible in criminal proceedings.**

**Draper v. United States**

**United States v. Harris**

# \*\*MARYLAND v. PRINGLE\*\*

#### **United States Supreme Court 540 U.S. 366 (2003)**

#### **Rule of Law**

**The presence of drugs in a car gives rise to probable cause to arrest any occupant of the car who had knowledge about the drugs and exercised dominion and control over them.**

***Maryland v. Pringle* – The amount of evidence required to establish probable cause is much lower than the amount of evidence required to support a criminal conviction.**

**United States v. Di Re**

# Ybarra v. Illinois

#### **Rule of Law**

**A person’s mere proximity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person.**

**District of Columbia v. Wesby**

# Wyoming v. Houghton

#### **Rule of Law**

**Where an officer has probable cause to search a car, he may search containers that belong to a passenger in the car if the containers could possibly contain the object of the search.**

**State v. Tuttle, 515 S.W.3d 282 (Tenn. 2017)**

**State v. Tuttle**

**Chapter 3, section 4 Search Warrants**

# \*\*MARYLAND v. GARRISON\*\*

#### **United States Supreme Court 480 U.S. 79 (1987)**

#### **Rule of Law**

**A search made under an otherwise valid warrant containing a mistake does not violate the Fourth Amendment if the police acted reasonably.**

**The Court in *Maryland v. Garrison* ruled that there’s some latitude for honest mistakes, as long as the officer’s actions are reasonable.**

# Groh v. Ramirez

#### **Rule of Law**

**A warrant that does not specifically describe the person or property to be searched or seized or incorporate supporting documents with those descriptions is invalid under the Fourth Amendment.**

# United States v. Leon

#### **Rule of Law**

**Evidence obtained in reasonable, good-faith reliance on a facially valid search warrant is not subject to the Fourth Amendment's exclusionary rule, even if the warrant is later deemed defective.**

***Leon* created the good-faith exception to the exclusionary rule. The exception was later expanded to cover other circumstances.**

**Hill v. California**

# Wilson v. Lane

#### **Rule of Law**

**To prove lack of testamentary capacity, the party challenging the will must present proof showing that the testator’s condition prevented her from having a decided and rational desire as to the disposition of her property.**

# \*\*RICHARDS v. WISCONSIN\*\*

#### **Rule of Law**

**The Fourth Amendment’s reasonableness requirement incorporates the common law rule that police entering a home must knock and announce their identity and purpose before attempting forcible entry, unless exigent circumstances exist and to do so would undermine law enforcement interest.**

#### **Hudson v. Michigan altered Richards and held that the 4th Amendment’s exclusionary rule doesn’t apply to a violation of the knock and announce rule.**

# Wilson v. Arkansas

#### **Rule of Law**

**The knock and announce rule is part of the reasonableness test required to assess whether a search was valid under the Fourth Amendment.**

# United States v. Banks

#### **Rule of Law**

**Exigent circumstances exist for forced entry after enough time has passed to make it reasonable to suspect imminent loss of evidence.**

# Maryland v. Buie

#### **Rule of Law**

**Incident to an arrest, the police may conduct a protective sweep of a premises based on reasonable suspicion that other people who pose a threat are in the building, provided the search is limited to those areas where a person may be hiding.**

# Terry v. Ohio

#### **Rule of Law**

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

# United States v. Ramirez

#### **Rule of Law**

**A defendant may be sentenced under a repealed statute for acts committed prior to the repeal of a law.**

**TCA 40-6-101 through 108**

**Franks v. Delaware, 98 S.Ct. 2674 (1978)**

# Franks v. Delaware

#### **United States Supreme Court 438 U.S. 154 (1978)**

#### **Rule of Law**

**A search warrant must be voided and any evidence obtained by the warrant excluded from admission at trial when a defendant shows that an affidavit in support of the warrant contains an intentional or reckless false statement and when the affidavit does not support a finding of probable cause in the absence of the false statement.**

**State v. Little, 560 S.W.2d 403 (Tenn. 1978)**

**State v. Little**

# December 17, 2020

**Chapter 3, Section 5 – Arrest and Search of Persons**

**Chapter 3, Section 6 – Seizure and Search of Premises**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 3, Section 5 – Arrest and Search of Persons**

# \*\*UNITED STATES v. WATSON\*\*

#### **Rule of Law**

**A warrantless arrest is permitted if there is probable cause to believe the person has committed a felony.**

***United States v. Watson –* Law enforcement officers can arrest a suspect in a public place on probable cause that the suspect has committed a felony offense.**

# Gerstein v. Pugh

#### **Rule of Law**

**A defendant charged with a crime by information may not be detained for an extended period of time without a judicial determination of probable cause.**

# County of Riverside v. McLaughlin

#### **Rule of Law**

**A judicial determination of probable cause made within 48 hours of arrest is generally sufficiently prompt.**

**Powell v. Nevada**

# \*\*UNITED STATES v. ROBINSON\*\*

#### **Rule of Law**

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

***United States v. Robinson* extended the search incident to arrest exception to minor offenses. It also clarified that arresting officers may open containers found during search, even without probable cause.**

# Weeks v. United States

#### **Rule of Law**

**The United States and federal officials are prohibited from executing unreasonable searches and seizures upon people.**

# Terry v. Ohio

#### **Rule of Law**

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

# Schmerber v. California

#### **Rule of Law**

**(1) The admission of evidence gathered by forcing a suspect to submit to a blood test does not violate the Fifth Amendment privilege against self-incrimination.**

**(2) The exigent-circumstances exception to the Fourth Amendment's warrant requirement allows officers to withdraw a suspect's blood for testing without a warrant if officers reasonably believe that delaying the test to obtain a warrant could lead to the destruction of evidence.**

# Missouri v. McNeely

#### **Rule of Law**

**In drunk-driving investigations, the natural dissipation of alcohol in the bloodstream does not constitute an exigency that in every case is sufficient to justify conducting an involuntary blood test without a warrant.**

**Cupp v. Murphy**

**Rawlings v. Kentucky**

# Illinois v. Lafayette

#### **Rule of Law**

**Police may constitutionally perform an inventory search of the personal effects of an arrested person during booking.**

**Go-Bart Importing Co. v. United States**

# \*\*WHREN v. UNITED STATES\*\*

#### **Rule of Law**

**Except with inventory searches and administrative inspections, when probable cause of illegal conduct exists, an officer’s true motive for searching or detaining a person does not negate the constitutionality of the search or seizure.**

***Whren v. United States –* If officers have probable cause for any traffic infraction, stopping the car is objectively reasonable under the fourth amendment.**

**Gustafson v. Florida**

**Florida v. Wells**

# Colorado v. Bertine

#### **Rule of Law**

**A police officer’s warrantless inventory search of closed containers inside an automobile, conducted pursuant to an established inventory policy, does not violate the Fourth Amendment to the U.S. Constitution.**

# New York v. Burger

#### **Rule of Law**

**A business in a closely regulated industry may be searched without a warrant so long as the searches are necessary, there is a substantial government interest, and the authorizing statute serves the functions of a warrant.**

**U.S. v. Villamonte-Marquez**

# United States v. Robinson

#### **Rule of Law**

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

***United States v. Robinson* extended the search incident to arrest exception to minor offenses. It also clarified that arresting officers may open containers found during search, even without probable cause.**

**Scott v. United States**

# Ashcroft v. al-Kidd

#### **Rule of Law**

**The subjective intent of an officer should not be considered when assessing the reasonableness of a Fourth Amendment seizure pursuant to a material-witness warrant.**

**Abel v. United States**

# Delaware v. Prouse

#### **Rule of Law**

**Under the Fourth Amendment to the United States Constitution, the reasonableness of a warrantless seizure must be weighed against the public interest the seizure serves.**

# Tennessee v. Garner

#### **Rule of Law**

**Under the Fourth Amendment, a police officer may not use deadly force to stop an unarmed suspect from fleeing unless the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others, and the deadly force is necessary to prevent the suspect's escape.**

# Wilson v. Arkansas

#### **Rule of Law**

**The knock and announce rule is part of the reasonableness test required to assess whether a search was valid under the Fourth Amendment.**

# Welsh v. Wisconsin

#### **Rule of Law**

**The exigent circumstances exception to the Fourth Amendment does not allow warrantless entry into a home to make an arrest for a minor offense.**

# Winston v. Lee

#### **Rule of Law**

**A compelled surgical procedure under general anesthetic for the purpose of obtaining criminal evidence constitutes an unreasonable search under the Fourth Amendment.**

# \*\*ATWATER v. CITY OF LAGO VISTA\*\*

#### **Rule of Law**

**The Fourth Amendment does not prohibit a warrantless arrest for a minor offense.**

***Atwater –* The Fourth Amendment permits arrests for fine-only misdemeanors, including minor traffic infractions.**

# Whren v. United States

#### **Rule of Law**

**Except with inventory searches and administrative inspections, when probable cause of illegal conduct exists, an officer’s true motive for searching or detaining a person does not negate the constitutionality of the search or seizure.**

**Arkansas v. Sullivan**

# Welsh v. Wisconsin

#### **Rule of Law**

**The exigent circumstances exception to the Fourth Amendment does not allow warrantless entry into a home to make an arrest for a minor offense.**

# United States v. Robinson

#### **Rule of Law**

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

***United States v. Robinson* extended the search incident to arrest exception to minor offenses. It also clarified that arresting officers may open containers found during search, even without probable cause.**

# New York v. Belton

#### **United States Supreme Court 453 U.S. 454 (1981)**

#### **Rule of Law**

**Incident to a lawful arrest, the police may search the area within the arrestee’s immediate control.**

# Arizona v. Gant

#### **Rule of Law**

**Police may search a vehicle after a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe that crime-related evidence is located in the vehicle.**

# County of Riverside v. McLaughlin

#### **Rule of Law**

**A judicial determination of probable cause made within 48 hours of arrest is generally sufficiently prompt.**

# Florence v. Board of Chosen Freeholders of the County of Burlington

#### **Rule of Law**

**A strip search in jail for those who commit minor offenses does not require reasonable suspicion.**

# \*\*MARYLAND v. KING\*\*

#### **United States Supreme Court 569 U.S. \_\_\_ (2013)**

#### **Rule of Law**

**When officers make an arrest for a serious offense that is supported by probable cause and bring the suspect to the station to be detained in custody, taking and analyzing a cheek swab of the arrestee's DNA is a legitimate police-booking procedure that is reasonable under the Fourth Amendment.**

***Maryland v. King* led to the increasing collection of DNA from arrested persons. Every state now collects DNA from some or all arrestees.**

**United States v. Kelly**

# United States v. Robinson

#### **Rule of Law**

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

***United States v. Robinson* extended the search incident to arrest exception to minor offenses. It also clarified that arresting officers may open containers found during search, even without probable cause.**

# Florence v. Board of Chosen Freeholders of the County of Burlington

#### **Rule of Law**

**A strip search in jail for those who commit minor offenses does not require reasonable suspicion.**

# City of Indianapolis v. Edmond

#### **Rule of Law**

**A suspicionless roadside checkpoint established for the purpose of deterring general criminal activity is unlawful under the Fourth Amendment.**

# Samson v. California

#### **Rule of Law**

**The suspicionless search of a parolee does not violate the Fourth Amendment.**

# \*\*MITCHELL v. WISCONSIN\*\*

#### **Rule of Law**

**Police may almost always obtain warrantless blood tests of an unconscious drunk-driving suspect.**

# Schmerber v. California

#### **United States Supreme Court 384 U.S. 757 (1966)**

#### **Rule of Law**

**(1) The admission of evidence gathered by forcing a suspect to submit to a blood test does not violate the Fifth Amendment privilege against self-incrimination.**

**(2) The exigent-circumstances exception to the Fourth Amendment's warrant requirement allows officers to withdraw a suspect's blood for testing without a warrant if officers reasonably believe that delaying the test to obtain a warrant could lead to the destruction of evidence.**

**South Dakota v. Neville**

**Mackey v. Montrym**

# Birchfield v. North Dakota

#### **Rule of Law**

**A law requiring a motorist to submit to a blood-alcohol-concentration breath test after being lawfully arrested for driving while impaired does not violate the Fourth Amendment’s prohibition against unreasonable searches.**

# Missouri v. McNeely

#### **Rule of Law**

**In drunk-driving investigations, the natural dissipation of alcohol in the bloodstream does not constitute an exigency that in every case is sufficient to justify conducting an involuntary blood test without a warrant.**

# Illinois v. McArthur

#### **Rule of Law**

**A temporary seizure is lawful if it is supported by probable cause, limited in nature, and tailored reasonably to secure law enforcement needs while also protecting privacy interests.**

# Welsh v. Wisconsin

#### **Rule of Law**

**The exigent circumstances exception to the Fourth Amendment does not allow warrantless entry into a home to make an arrest for a minor offense.**

# Coolidge v. New Hampshire

#### **Rule of Law**

**Under the plain-view doctrine, police may not conduct a warrantless search of an automobile if they expected in advance to find evidence and failed to secure a warrant.**

**Chapter 3, Section 6 – Seizure and Search of Premises**

# \*\*PAYTON v. NEW YORK\*\*

#### **Rule of Law**

**Absent exigent circumstances, the police may not enter a person’s home to make an arrest without a warrant.**

***Peyton v. New York* – without a warrant or an exception to the warrant requirement, such as exigent circumstances, officers may not enter a suspect’s home to make an arrest.**

# Dorman v. United States

#### **Rule of Law**

**A conviction for the constructive possession of illegal drugs requires proof that the defendant knew of and was in a position to exercise dominion and control over the contraband.**

# United States v. Watson

#### **Rule of Law**

**A warrantless arrest is permitted if there is probable cause to believe the person has committed a felony.**

# Steagald v. United States

#### **Rule of Law**

**Absent consent or exigent circumstances, the Fourth Amendment prohibits law enforcement from searching for the subject of an arrest warrant in a third party’s home without first obtaining a search warrant.**

# \*\*CHIMEL v. CALIFORNIA\*\*

#### **Rule of Law**

**Incident to a lawful arrest, a warrantless search of the area in possession and control of the person under arrest is permissible under the Fourth Amendment.**

**In *Chimel*, the Supreme Court clarified the permissible scope of a search incident to arrest.**

# Weeks v. United States

#### **Rule of Law**

**The United States and federal officials are prohibited from executing unreasonable searches and seizures upon people.**

# Carroll v. United States

***Rule of Law***

**Where the facts and circumstances within police officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that intoxicating liquor is being transported in the automobile which the officers stop and search, the officers are justified in conducting the search.**

# Agnello v. United States

# Marron v. United States

# Go-Bart Importing Co. v. United States

**United States v. Lefkowitz**

**Harris v. United States**

**Trupiano v. United States**

**United States v. Rabinowitz**

# Maryland v. Buie

#### **Rule of Law**

**Incident to an arrest, the police may conduct a protective sweep of a premises based on reasonable suspicion that other people who pose a threat are in the building, provided the search is limited to those areas where a person may be hiding.**

# Mapp v. Ohio

#### **Rule of Law**

**Evidence obtained through an unreasonable search and seizure in violation of the Fourth Amendment is inadmissible in state criminal proceedings.**

**The *Mapp* decision extended the exclusionary rule to state courts.**

# \*\*KENTUCKY v. KING\*\*

#### **Rule of Law**

**The exigent circumstances exception to the Fourth Amendment's warrant requirement applies to an officer-created exigency if the exigency does not arise from the officer's unreasonable or unconstitutional conduct.**

***Kentucky v. King –* Reasonable officer created exigencies fall within the exigent-circumstances exception to the Fourth Amendment.**

# Whren v. United States

#### **Rule of Law**

**Except with inventory searches and administrative inspections, when probable cause of illegal conduct exists, an officer’s true motive for searching or detaining a person does not negate the constitutionality of the search or seizure.**

# Brigham City, Utah v. Stuart

#### **Rule of Law**

**Police may enter a home without a warrant if there is an objectively reasonable basis for believing an occupant is injured or in immediate danger.**

# Michigan v. Fisher

#### **Rule of Law**

**A warrantless search of a home is permissible where there is an objectively reasonable basis for believing someone within the house is in need of immediate aid.**

# Horton v. California

#### **Rule of Law**

**When the police have a legal right to be where they are and they find incriminating evidence and the incriminating character is immediately apparent, the police may seize the evidence without a warrant under the plain view doctrine.**

# Vale v. Louisiana

#### **Rule of Law**

**An arrest on the street, without more, does not provide justification for a warrantless search of the arrestee’s house.**

# Segura v. United States

#### **Rule of Law**

**Criminal evidence will not be suppressed pursuant to the exclusionary rule if law enforcement officers had an independent source of information justifying a valid search and seizure of the evidence.**

# Illinois v. McArthur

#### **Rule of Law**

**A temporary seizure is lawful if it is supported by probable cause, limited in nature, and tailored reasonably to secure law enforcement needs while also protecting privacy interests.**

# January 7, 2021

# Chapter 3, Section 7 – Seizure and Search of Vehicles and Effects

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# \*\*CALIFORNIA v. CARNEY\*\*

#### **Rule of Law**

**Under the Fourth Amendment, a vehicle that can be readily moved and that has a reduced expectation of privacy due to its use as a licensed motor vehicle may be searched without a warrant provided probable cause exists.**

***California v. Carney –* the automobile exception applies to warrantless searches of publicly-located, readily mobile motor homes.**

# Carroll v. United States

***Rule of Law***

**Where the facts and circumstances within police officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that intoxicating liquor is being transported in the automobile which the officers stop and search, the officers are justified in conducting the search.**

# Maryland v. Dyson

#### **Rule of Law**

**The warrantless search of a vehicle is not unreasonable under the Fourth Amendment when the search is based on probable cause.**

# Florida v. White

# G.M. Leasing Corp. v. U.S.

# United States v. Chadwick

#### **Rule of Law**

**The Fourth Amendment protects a person’s reasonable expectations of privacy and requires that the police obtain a warrant before executing a search unless a relevant exception applies.**

# \*\*ARIZONA v. GANT\*\*

#### **Rule of Law**

**Police may search a vehicle after a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe that crime-related evidence is located in the vehicle.**

***Arizona V. Gant* narrowed the longstanding interpretation of *Belton* which altered police practices following the arrest of a car’s driver.**

# Chimel v. California

#### **Rule of Law**

**Incident to a lawful arrest, a warrantless search of the area in possession and control of the person under arrest is permissible under the Fourth Amendment.**

# New York v. Belton

#### **Rule of Law**

**Incident to a lawful arrest, the police may search the area within the arrestee’s immediate control.**

# Thornton v. United States

#### **Rule of Law**

**A police officer may conduct a search incident to arrest of a suspect’s car even if the suspect was already outside the car when the officer made contact.**

# United States v. Rabinowitz

# Entick v. Carrington

# Michigan v. Long

#### **Rule of Law**

**(1) The U.S. Supreme Court has jurisdiction to review a state court's decision to provide a defendant with broader procedural protections than those guaranteed in the U.S. Constitution unless the state court explicitly states that its decision is based on separate, adequate, and independent state grounds.**

**(2) The search of an automobile's passenger compartment, limited to those areas in which a weapon may be placed or hidden, is permissible if a law-enforcement officer reasonably believes, based on specific and articulable facts combined with the rational inferences from those facts, that the suspect is dangerous and may gain immediate control of weapons.**

# United States v. Ross

#### **Rule of Law**

**A police search of closed containers discovered inside a vehicle during a warrantless vehicle search does not violate the Fourth Amendment when probable cause justifies a search of the containers.**

# Maryland v. Buie

#### **Rule of Law**

**Incident to an arrest, the police may conduct a protective sweep of a premises based on reasonable suspicion that other people who pose a threat are in the building, provided the search is limited to those areas where a person may be hiding.**

# Robbins v. California

# Harris v. U.S.

# \*\*CALIFORNIA v. ACEVEDO\*\*

#### **Rule of Law**

**The Fourth Amendment permits warrantless searches of containers found in automobiles provided the police have probable cause that the container contains contraband.**

***California v. Acevedo* permits warrantless searches of closed containers inside cars, as long as officers have probable cause.**

# Arkansas v. Sanders

***Rule of Law***

**Not all containers and packages found by police during the course of a search will deserve the full protection of the Fourth Amendment. Thus, some containers (for example a kit of burglar tools or a gun case) by their very nature cannot support any reasonable expectation of privacy because their contents can be inferred from their outward appearance. Similarly, in some cases the contents of a package will be open to "plain view," thereby obviating the need for a warrant. There are difficulties in determining which parcels taken from an automobile require a warrant for their search and which do not. A warrant generally is required before personal luggage can be searched and the extent to which the U.S. Const. amend. XIV applies to containers and other parcels depends not at all upon whether they are seized from an automobile.**

# United States v. Johns

# Weeks v. United States

#### **Rule of Law**

**The United States and federal officials are prohibited from executing unreasonable searches and seizures upon people.**

# O’Connor v. Ortega

***Rule of Law***

**A psychiatrist employed by a state hospital has a reasonable expectation of privacy in his office, and he is thus entitled to Fourth Amendment protections with respect to a search of his office conducted by hospital officials during an investigation into alleged work-related improprieties on his part.**

# United States v. Watson

#### **Rule of Law**

**A warrantless arrest is permitted if there is probable cause to believe the person has committed a felony.**

# Illinois v. Lafayette

#### **Rule of Law**

**Police may constitutionally perform an inventory search of the personal effects of an arrested person during booking.**

# Johnson v. United States

#### **Rule of Law**

**The Fourth Amendment requires that law enforcement officers present a warrant, received from a neutral magistrate, before they can search an individual’s premises.**

# Mincey v. Arizona

#### **United States Supreme Court 437 U.S. 385 (1978)**

#### **Rule of Law**

**The fact that a homicide has occurred does not justify making an exception to the rule that police must obtain a warrant prior to searching a suspect’s home.**

# \*\*WYOMING v. HOUGHTON\*\*

#### **Rule of Law**

**Where an officer has probable cause to search a car, he may search containers that belong to a passenger in the car if the containers could possibly contain the object of the search.**

***Wyoming v. Houghton* shows that if a police officer conducts a warrantless search inside a car based on probable cause, the officer may search property belonging to a passenger.**

# Carroll v. United States

***Rule of Law***

**Where the facts and circumstances within police officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that intoxicating liquor is being transported in the automobile which the officers stop and search, the officers are justified in conducting the search.**

# United States v. Ross

#### **Rule of Law**

**A police search of closed containers discovered inside a vehicle during a warrantless vehicle search does not violate the Fourth Amendment when probable cause justifies a search of the containers.**

# Zurcher v. Stanford Daily

#### **Rule of Law**

**It does not violate constitutional protections to issue a search warrant for the offices of a newspaper even though the object of the search could be demanded through the issuance of a subpoena duces tecum.**

# United States v. Di Re

# Ybarra v. Illinois

#### **United States Supreme Court**

#### **Rule of Law**

**A person’s mere proximity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person.**

# Terry v. Ohio

#### **Rule of Law**

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

# \*\*COLORADO v. BERTINE\*\*

#### **Rule of Law**

**A police officer’s warrantless inventory search of closed containers inside an automobile, conducted pursuant to an established inventory policy, does not violate the Fourth Amendment to the U.S. Constitution.**

***Colorado v. Bertine* held that incriminating evidence discovered in closed containers during a standardized inventory search is admissible under the Fourth Amendment.**

# Arkansas v. Sanders

# United States v. Chadwick

#### **Rule of Law**

**The Fourth Amendment protects a person’s reasonable expectations of privacy and requires that the police obtain a warrant before executing a search unless a relevant exception applies.**

# South Dakota v. Opperman

#### **Rule of Law**

**Police may constitutionally perform an inventory search of a vehicle lawfully in police possession.**

# Illinois v. Lafayette

#### **Rule of Law**

**Police may constitutionally perform an inventory search of the personal effects of an arrested person during booking.**

# Florida v. Wells

# Colorado v. Bertine

#### **Rule of Law**

**A police officer’s warrantless inventory search of closed containers inside an automobile, conducted pursuant to an established inventory policy, does not violate the Fourth Amendment to the U.S. Constitution.**

# \*\*RILEY v. CALIFORNIA\*\*

#### **Rule of Law**

**Under the Fourth Amendment, the government may not conduct a warrantless search of the contents of a cell phone seized incident to an arrest absent exigent circumstances.**

***Riley v. California* was lauded by digital privacy advocates as preserving the privacy of personal data on a cell phone.**

# United States v. Robinson

#### **Rule of Law**

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

***United States v. Robinson* extended the search incident to arrest exception to minor offenses. It also clarified that arresting officers may open containers found during search, even without probable cause.**

# Chimel v. California

#### **Rule of Law**

**Incident to a lawful arrest, a warrantless search of the area in possession and control of the person under arrest is permissible under the Fourth Amendment.**

# Arizona v. Gant

#### **Rule of Law**

**Police may search a vehicle after a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe that crime-related evidence is located in the vehicle.**

# Smith v. Maryland

#### **Rule of Law**

**A person has no legitimate expectation of privacy in information that the person voluntarily turns over to third parties.**

# Weeks v. United States

#### **Rule of Law**

**The United States and federal officials are prohibited from executing unreasonable searches and seizures upon people.**

# January 14, 2021

# Chapter 3, Section 8 – Stop and Frisk

# State v. Daniel, 12 S.W.3d 420 (Tenn. 2000)

# Chapter 3, Section 9 – Consent Searches

# State v. Berrios, 235 S.W.3d 99 (Tenn. 2007)

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# Chapter 3, Section 8 – Stop and Frisk

**Camara v. Municipal Court**

***Rule of Law***

**Under the Fourth Amendment, routine administrative searches require consent or a warrant.**

**\*\*TERRY v. OHIO\*\***

***Rule of Law***

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

**Heien v. North Carolina**

***Rule of Law***

**A mistake of law can give rise to the reasonable suspicion necessary to uphold a warrantless seizure under the Fourth Amendment.**

**United States v. Hensley**

***Rule of Law***

**If police have a reasonable suspicion, grounded in specific and articulable facts, that a person they encounter was involved in or is wanted in connection with a completed felony, a *Terry* stop may be made to investigate that suspicion.**

# United States v. Place

#### **Rule of Law**

**When police seize luggage from a suspect’s custody, the limitations applicable to investigative detentions of the person himself should define the permissible scope of an investigative detention of the person’s luggage on less than probable cause.**

# Michigan v. Long

#### **Rule of Law**

**(1) The U.S. Supreme Court has jurisdiction to review a state court's decision to provide a defendant with broader procedural protections than those guaranteed in the U.S. Constitution unless the state court explicitly states that its decision is based on separate, adequate, and independent state grounds.**

**(2) The search of an automobile's passenger compartment, limited to those areas in which a weapon may be placed or hidden, is permissible if a law-enforcement officer reasonably believes, based on specific and articulable facts combined with the rational inferences from those facts, that the suspect is dangerous and may gain immediate control of weapons.**

**United States v. Robinson**

#### **Rule of Law**

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

***United States v. Robinson* extended the search incident to arrest exception to minor offenses. It also clarified that arresting officers may open containers found during search, even without probable cause.**

**Pennsylvania v. Mimms**

***Rule of Law***

**In assessing the reasonableness of a search and seizure, a court must weigh the incremental intrusiveness of the search against the public policy justifying the search.**

# Marlyand v. Wilson

**Rule of Law**

**Arrest**

**Police officer may, as a matter of course, order passenger of lawfully stopped automobile to exit vehicle.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ibdd906309c2511d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Police officer making traffic stop may order passengers to get out of car pending completion of stop.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ibdd906309c2511d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Hiibel v. Sixth Judicial Dist. Court of Nevada**

***Rule of Law***

**An arrest for failure to provide identification does not violate the Fourth Amendment so long as the request was reasonably related to the circumstances justifying the stop.**

**Berkemer v. McCarty**

***Rule of Law***

**Police must issue *Miranda*warnings prior to all custodial interrogations, regardless of the nature or severity of the offense.**

# Kansas v. Glover

**Rule of Law**

**When the officer lacks information negating an inference that the owner is the driver of the vehicle, the stop is reasonable. It’s a fair and reasonable assumption to make...the person driving the vehicle is likely the owner of the vehicle. This does not violate the 4th amendment.**

**Automobiles**

**An investigative traffic stop conducted after a police officer runs a vehicle's license plate and learns that the registered owner has a revoked driver's license is reasonable under the Fourth Amendment when the officer lacks information negating an inference that the owner is the driver of the vehicle.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**The Fourth Amendment permits an officer to initiate a brief investigative traffic stop when he has a particularized and objective basis for suspecting the particular person stopped of criminal activity.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Although a mere hunch does not create reasonable suspicion justifying an investigative traffic stop, the level of suspicion the standard requires is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Because it is a less demanding standard, reasonable suspicion, as required to justify an investigative traffic stop, can be established with information that is different in quantity or content than that required to establish probable cause.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**The reasonable suspicion standard for initiating an investigative traffic stop depends on the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Courts reviewing investigative traffic stop under the reasonable suspicion standard cannot reasonably demand scientific certainty where none exists.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Courts reviewing investigative traffic stop under the reasonable suspicion standard must permit officers to make commonsense judgments and inferences about human behavior.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Facts known to deputy at the time he stopped vehicle registered to defendant gave rise to reasonable suspicion that defendant was driving with a revoked license in violation of Kansas law, and thus justified the investigative traffic stop, based on commonsense inference that defendant was likely the driver of the vehicle; before initiating the stop, deputy observed an individual operating a pickup truck, he knew that the license plate was linked to a truck matching the observed vehicle, he knew that defendant, the registered owner of the truck, had a revoked license, and he possessed no exculpatory information, let alone sufficient information to rebut the reasonable inference that defendant was driving his own truck.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Kan. Stat. Ann. § 8-285(a)(3)**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS8-285&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=SP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default)#co_pp_28cc0000ccca6)**.**

**Automobiles**

**The reasonable suspicion inquiry for justifying a traffic stop falls considerably short of 51% accuracy, for to be reasonable is not to be perfect.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**In determining whether reasonable suspicion exists to justify conducting a traffic stop, an officer is not limited to drawing inferences based on knowledge gained only through law enforcement training and experience.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Although an officer's specialized training and experience routinely play a significant role in law enforcement investigations, such experience is not required in every instance to satisfy reasonable suspicion standard for conducting a traffic stop.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**The Fourth Amendment requires an individualized suspicion that a particular citizen was engaged in a particular crime, in order for an officer to conduct a traffic stop.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Traffic stops based on a combination of database information and an officer's commonsense judgments do not delegate to officers broad and unlimited discretion to stop drivers at random, nor do they allow officers to stop drivers whose conduct is no different from any other driver's.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Officers may rely on probabilities in the reasonable suspicion context, in order to justify conducting a traffic stop.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Searches and Seizures**

**The ultimate touchstone of the Fourth Amendment is reasonableness.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Like all seizures, the officer's action in conducting a traffic stop must be justified at its inception.**[**U.S. Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDIV&originatingDoc=I246e79c0780911ea8939c1d72268a30f&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**\*\*FLORIDA v. J.L.\*\***

***Rule of Law***

**An anonymous tip that a person may be carrying a gun does not justify a stop and frisk under the Fourth Amendment unless there is additional corroboration to ensure that the tip has "sufficient indicia of reliability" to create reasonable suspicion justifying a stop.**

***Florida v. J.L.* – A mere anonymous tip that a person possesses a concealed firearm is insufficient for a *Terry* stop and frisk.**

**Alabama v. White**

***Rule of Law***

**To determine whether an informant’s tip provides reasonable suspicion, the totality of the circumstances must be analyzed, with attention given to the veracity, reliability, and basis of knowledge of an informant.**

# Navarette v. California

#### **Rule of Law**

**An anonymous tip of reckless driving can support the reasonable suspicion necessary for a traffic stop if the tip is accompanied by adequate indicia of reliability.**

**\*\*FLORIDA v. ROYER\*\***

***Rule of Law***

**(1) Under the Fourth Amendment, police officers cannot move a suspect to another location during a *Terry* stop without a legitimate law enforcement purpose, such as ensuring the safety and security of the officers and the suspect.  
(2) Under the Fourth Amendment, a suspect's consent to a warrantless search is invalid if the suspect was illegally detained at the time it was given.**

**Terry v. Ohio**

***Rule of Law***

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

**Dunaway v. New York**

***Rule of Law***

**Except in the case of temporary stops on the street where the police need only have reasonable suspicion of criminal activity, the police may only seize a citizen based upon probable cause.**

**Davis v. Mississippi**

***Rule of Law***

**Fingerprints obtained during an illegal detention may not be used as evidence.**

**United States v. Sharpe**

***Rule of Law***

**A detention is not too long in duration to be justified as an investigative stop if police diligently pursue a means of investigation that is likely to confirm or dispel their suspicions quickly, during which time it is necessary to detain the suspect.**

**United States v. Hensley**

***Rule of Law***

**If police have a reasonable suspicion, grounded in specific and articulable facts, that a person they encounter was involved in or is wanted in connection with a completed felony, a *Terry* stop may be made to investigate that suspicion.**

**Hayes v. Florida**

***Rule of Law***

**Absent probable cause and a warrant, the Fourth Amendment prohibits an involuntary removal of a suspect from the suspect’s home to a police station for a temporary detention for investigative purposes.**

# Illinois v. Caballes

#### **Rule of Law**

**The Fourth Amendment does not require reasonable, articulable suspicion to administer a canine sniff test during a routine traffic stop.**

# Muehler v. Mena

#### **Rule of Law**

**(1) Officers may detain innocent occupants of a home in which a search warrant is being executed for the duration of the search.**

**(2) An officer's questioning of a detainee about a matter unrelated to the alleged crimes covered in the search warrant is not an unreasonable seizure under the Fourth Amendment.**

**Terry v. Ohio**

***Rule of Law***

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

**Dunaway v. New York**

***Rule of Law***

**Except in the case of temporary stops on the street where the police need only have reasonable suspicion of criminal activity, the police may only seize a citizen based upon probable cause.**

# \*\*United States v. Drayton\*\*

#### **Rule of Law**

**The police may request consent to search a person, even if they have no basis for suspecting that individual of illegal activity, and the citizen is not subject to a Fourth Amendment seizure if a reasonable person would feel that he is free to leave.**

***Drayton* – If officers speak in a nonconfrontational way, don’t display weapons, ask permission to search, the Fourth Amendment doesn’t require officers to inform passengers that they aren’t obliged to cooperate.**

**Florida v. Bostick**

***Rule of Law***

**A police request for identification and consent to search private belongings does not amount to a seizure when the police inform the subject of the right to refuse consent to questioning and search.**

**California v. Hodari D.**

***Rule of Law***

**A Fourth Amendment seizure occurs where the police exercise physical force over a subject or where a subject submits to an officer’s show of authority.**

**County of Sacramento v. Lewis**

***Rule of Law***

**A specific action by a state official violates substantive due process under the Fourteenth Amendment when it is deliberate and thus constitutes “arbitrary conduct shocking to the conscience” and violates the “decencies of civilized conduct.”**

**Florida v. Rodriguez**

**Rule of Law**

**Arrest**

**Temporary detention for questioning in case of airport search is reviewed under standard of whether there is articulable suspicion that person has committed or is about to commit a crime and is permissible because of public interest involved in suppression of illegal transactions in drugs or of any other serious crime.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I2e2fb65c9bf211d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Initial contact between police officers and suspect, where they simply asked if he would step aside and talk with them in airport concourse, was the sort of consensual encounter that implicated no Fourth Amendment interest.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I2e2fb65c9bf211d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Assuming that, after suspect agreed to talk with police in airport concourse, moved over to where his cohorts and another detective was standing and ultimately granted permission to search his baggage, there was “seizure” for purposes of Fourth Amendment, that seizure was justified by “articulable suspicion” where before officers even spoke to the confederates, one by one they had sighted plain clothes officers and had spoken furtively to one another, one was twice overheard urging others to “get out of here,” suspect's strange movements in his attempt to evade officers aroused further justifiable suspicion, as did contradictory statements concerning identities, one officer had special training in narcotic surveillance and apprehension and suspect was approached in major international airport where, due in part to extensive hijacking surveillance and equipment, reasonable privacy expectations were of significantly lesser magnitude.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I2e2fb65c9bf211d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Criminal Law**

**State trial court was incorrect both in its conclusion that there was no articulable basis for detaining suspect at airport and in its conclusion that there was “taint” resulting from that stop which rendered cocaine seized following examination of suspect's luggage inadmissible.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I2e2fb65c9bf211d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

# INS v. Delgado

***Rule of Law***

**A law enforcement officer “seizes” an individual in violation of the Fourth Amendment if he uses physical force, or by show of authority, to restrict the liberty of the individual or if a reasonable person in the same situation would have believed that the individual was not free to leave the presence of the officer.**

**Schneckloth v. Bustamonte**

***Rule of Law***

**The court must look at the totality of the circumstances in order to determine whether consent to a warrantless search absent probable cause was freely and voluntarily given.**

# \*\*BRENDLIN v. CALIFORNIA\*\*

#### **Rule of Law**

**The passenger of a vehicle in a traffic stop is seized within the meaning of the Fourth Amendment.**

***Brendlin v. California* makes it clear that if a car is stopped by police, anyone in the car may challenge the stop’s constitutionality.**

**Florida v. Bostick**

***Rule of Law***

**A police request for identification and consent to search private belongings does not amount to a seizure when the police inform the subject of the right to refuse consent to questioning and search.**

**Brower v. County of Inyo**

**Rule of Law**

**Arrest**

**Fourth Amendment seizure does not occur whenever there is governmentally caused termination of individual's freedom of movement even if desirable, such as in case of fleeing felon, but only when there is governmental termination of freedom of movement through means intentionally applied.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**Driver of stolen car who was attempting to elude police was “seized” for purposes of Fourth Amendment, when police officers placed 18–wheel truck completely across highway in path of flight.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Civil Rights**

**“Seizure” alone is not enough for § 1983 liability; seizure must also be unreasonable.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**42 U.S.C.A. § 1983**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=42USCAS1983&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Civil Rights**

[**Section 1983**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=42USCAS1983&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**complaint which alleged that police officers, acting under color of state law, violated rights of decedent who was killed when stolen car he had been driving at high speeds to elude pursuing police crashed into police roadblock, stated cause of action under Fourth Amendment on basis that seizure was unreasonable due to excessive force; complaint alleged that roadblock was placed in such manner as to be likely to kill decedent.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**42 U.S.C.A. § 1983**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=42USCAS1983&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**Alleged use of roadblock to stop driver of stolen car constituted “seizure” within meaning of Fourth Amendment.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If5be02d09c1f11d9bdd1cfdd544ca3a4&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**United States v. Mendenhall**

***Rule of Law***

**A Fourth Amendment “seizure” occurs when a reasonable person would believe that he is not free to leave police custody.**

**Arizona v. Johnson**

***Rule of Law***

**To justify a pat down of a driver or passenger during a lawful traffic stop, the police must have reasonable suspicion that the person subjected to the frisk is armed and dangerous.**

**Terry v. Ohio**

***Rule of Law***

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

# Marlyand v. Wilson

***Rule of Law***

**Arrest**

**Police officer may, as a matter of course, order passenger of lawfully stopped automobile to exit vehicle.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ibdd906309c2511d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Automobiles**

**Police officer making traffic stop may order passengers to get out of car pending completion of stop.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ibdd906309c2511d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**\*\*RODRIGUEZ v. UNITED STATES\*\***

***Rule of Law***

**Under the Fourth Amendment, a police officer may not prolong a routine traffic stop to have a drug-sniffing dog walk around the vehicle.**

***Rodriguez* held that a dog sniff that prolongs a traffic stop, not supported by at least reasonable suspicion, violates the Fourth Amendment.**

# Terry v. Ohio

#### **Rule of Law**

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

**Illinois v. Caballes**

#### **Rule of Law**

**The Fourth Amendment does not require reasonable, articulable suspicion to administer a canine sniff test during a routine traffic stop.**

**Arizona v. Johnson**

***Rule of Law***

**To justify a pat down of a driver or passenger during a lawful traffic stop, the police must have reasonable suspicion that the person subjected to the frisk is armed and dangerous.**

**Pennsylvania v. Mimms**

***Rule of Law***

**In assessing the reasonableness of a search and seizure, a court must weigh the incremental intrusiveness of the search against the public policy justifying the search.**

# United States v. Holt

**Rule of Law**

**Criminal Law**

**In reviewing a district court order granting a motion to suppress, Court of Appeals accepts the district court's factual findings unless clearly erroneous, and views the evidence in the light most favorable to those findings.**

**Criminal Law**

**Court of Appeals reviews de novo the ultimate determination of the reasonableness of police conduct under the Fourth Amendment.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**No one factor is determinative in analyzing reasonableness of search or seizure under the Fourth Amendment; instead, reasonableness is measured in objective terms by examining the totality of the circumstances.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**In considering the individual-rights side of the balance for determining whether a search or seizure was reasonable under the Fourth Amendment, courts consider the individual's reasonable expectations of privacy and liberty.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**Courts assess the reasonableness of a traffic stop based on an observed traffic violation by considering the scope of the officer's actions and balancing the motorist's legitimate expectation of privacy against the government's law-enforcement-related interests.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**During routine traffic stop, officer may ask about the driver's authority to operate the vehicle.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**Government's general interest in criminal investigation, without more, is generally insufficient to outweigh the individual interest in ending the detention during a routine traffic stop.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**During routine traffic stop, once a motorist has produced a valid license and proof that he is entitled to operate the car, he must be allowed to proceed on his way, without being subject to further delay by police for additional questioning; further delay is justified only if the officer has reasonable suspicion of illegal activity or if the encounter has become consensual.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**Motorist may be detained for a short period during traffic stop while the officer runs a background check to see if there are any outstanding warrants or criminal history pertaining to the motorist, even though the purpose of the stop had nothing to do with such prior criminal history.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**During traffic stop, officer may order the driver and passengers out of the vehicle in the interest of officer safety, even in the absence of any particularized suspicion of personal danger.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**While a motorist retains some reasonable expectation of privacy during traffic stop, when officer safety is at stake, the motorist's expectations are necessarily diminished.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**Officer conducting traffic stop was justified in asking motorist about presence of weapons in vehicle, even if officer lacked particularized suspicion that the motorist possessed loaded weapons and regardless of whether the officer subjectively feared the motorist; overruling**[***United States*v. Lee, 73 F.3d 1034.**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1996028209&pubNum=506&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Availability of a search incident to arrest for officer safety does not depend on the subjective mindset of the arresting officer.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Under Terry, courts determine the reasonableness of a search or seizure by conducting a dual inquiry, asking first whether the officer's action was justified at its inception, and second whether it was reasonably related in scope to the circumstances which justified the interference in the first place.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If855a5d579be11d98c82a53fc8ac8757&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

# State v. Daniel, 12 S.W.3d 420 (Tenn. 2000)

# State v. Daniel

**Rule of Law**

**Criminal Law**

**Trial court's conclusion that a seizure did not occur was a conclusion of law derived from an application of the law to the undisputed facts, and thus, the Supreme Court would apply de novo review to denial of motion to suppress, where trial court heard the testimony of only one witness at suppression hearing.**

**Arrest**

**Neither the Fourth Amendment nor a similar provision of the State Constitution limit all contact between police and citizens; instead these constitutional provisions are designed to prevent arbitrary and oppressive interference with the privacy and personal security of individuals.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Searches and Seizures**

**Constitutional protections against unreasonable searches and seizures are implicated only when a police officer's interaction with a citizen impermissibly intrudes upon the privacy or personal security of the citizen.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**Three distinct types of police-citizen interactions implicate Fourth Amendment protections: (1) a full scale arrest which must be supported by probable cause; (2) a brief investigatory detention which must be supported by reasonable suspicion; and (3) brief police-citizen encounters which require no objective justification.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**While arrests and investigatory detentions implicate varying degrees of constitutional protection, not all personal intercourse between policemen and citizens involves seizures of persons; only when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen may we conclude that a seizure has occurred.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**Even when police have no basis for suspecting that an individual has committed or is about to commit a crime, the officer may approach an individual in a public place and ask questions without implicating constitutional protections.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**A seizure implicating constitutional concerns occurs only if, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he or she was not free to leave.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**In order to determine whether a particular encounter constitutes a seizure of the person, a court must consider all the circumstances surrounding the encounter to determine whether police conduct would have communicated to a reasonable person that the person was not free to decline the officer's request or otherwise terminate the encounter.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**Police-citizen encounters do not become seizures simply because citizens may feel an inherent social pressure to cooperate with police.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**Some of the factors which are relevant and should be considered by courts when applying totality of the circumstances test to determine whether a Fourth Amendment seizure of the person has occurred include the following: the time, place and purpose of the encounter; the words used by the officer; the officer's tone of voice and general demeanor; the officer's statements to others who were present during the encounter; the threatening presence of several officers; the display of a weapon by an officer; and the physical touching of the person of the citizen.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**The Fourth Amendment is not implicated and no seizure of the person occurs when police approach an individual, in a public place, or in a parked car, ask questions, and request to search, so long as police do not convey a message that compliance with their requests is required.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Arrest**

**Although police need not have reasonable suspicion of illegal activity to approach a vehicle stopped in a public place and ask the occupant questions, when police stop a moving vehicle, a seizure implicating the protection of both the State and Federal Constitutions has occurred.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**;**[**Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=If8fc78e5e7b611d9bf60c1d57ebc853e&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

# Chapter 3, Section 9 – Consent Searches

# \*\*SCHNECKLOTH v. BUSTAMONTE\*\*

#### **United States Supreme Court 412 U.S. 218 (1973)**

#### **Rule of Law**

**The court must look at the totality of the circumstances in order to determine whether consent to a warrantless search absent probable cause was freely and voluntarily given.**

***Schneckloth v. Bustamonte –* Courts must assess the totality of the circumstances in deciding whether consent was voluntary.**

# Miranda v. Arizona

#### **Rule of Law**

**Without certain hallmark warnings regarding the right to remain silent and the right to counsel, statements made during custodial interrogation are inadmissible at trial.**

# Johnson v. Zerbst

#### **Rule of Law**

**The Sixth Amendment guarantees the right of a criminal defendant to a lawyer's assistance, unless the defendant knowingly and intelligently waives that right.**

# United States v. Wade

***Rule of Law***

**A post-indictment witness identification of a criminal suspect, conducted without notice to and in the absence of the suspect's counsel, violates the Sixth Amendment right to the assistance of counsel.**

# Gilbert v. California

**Rule of Law**

**Criminal Law**

**Taking of exemplars of defendant's handwriting, containing no testimonial or communicative matter, did not violate defendant's Fifth Amendment privilege against self-incrimination.**[**U.S.C.A.Const. Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I9886aac29c1c11d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Criminal Law**

**Not every compulsion of defendant to use his voice or write compels communication within Fifth Amendment privilege; a mere handwriting exemplar, in contrast to content of what is written, like voice or body itself, is an identifying physical characteristic outside constitutional protection.**[**U.S.C.A.Const. Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I9886aac29c1c11d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Criminal Law**

**Preindictment taking of handwriting exemplars from defendant was not a critical stage of criminal proceedings at which defendant was entitled to assistance of counsel, since there was minimal risk that absence of counsel might derogate from his right to fair trial.**[**U.S.C.A.Const. Amend. 6**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDVI&originatingDoc=I9886aac29c1c11d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Criminal Law**

**Accomplice's pretrial statement to police, referring to defendant 159 times in course of reciting defendant's role in offenses, was inadmissible hearsay as to defendant.**

**Constitutional Law**

**Supreme Court had no occasion to pass on contention that defendant had been denied due process by admission of accomplice's pretrial statements which referred to defendant, where state Supreme Court, which had on appeal determined that erroneous admission of statements was harmless error, might review application of harmless error standard on remand.**

**Federal Courts**

**Certiorari was granted to consider important question of extent to which “hot pursuit” and “exigent circumstances” exceptions may permit warrantless searches without violation of Fourth Amendment.**[**U.S.C.A.Const. Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I9886aac29c1c11d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Federal Courts**

**Certiorari, granted to review search and seizure problem, would be vacated as having been improperly granted where closer examination of record revealed that facts did not appear with sufficient clarity to enable court to decide that question.**

**Criminal Law**

**Admission of in-court identifications, by witnesses who had earlier identified defendant at lineup, without first determining that identifications were not tainted by illegal lineup but were of independent origin, was constitutional error.**

**Criminal Law**

**State defendant, on certiorari was entitled only to vacation of his conviction, despite determination that admission of in-court identifications without determination that they were not tainted by illegal lineup was constitutional error, pending holding of such proceedings as state supreme court might deem appropriate to afford state opportunity to establish that in-court identifications had independent source or that their introduction was harmless error.**

**Criminal Law**

**Post indictment pretrial lineup at which defendant was exhibited to identifying witnesses was critical stage of criminal prosecution at which defendant was entitled to counsel, and conduct of lineup without notice to and in absence of counsel denied defendant his Sixth Amendment rights.**[**U.S.C.A.Const. Amend. 6**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDVI&originatingDoc=I9886aac29c1c11d9bc61beebb95be672&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Criminal Law**

**Testimony, at guilt and penalty stages, of witnesses that they had identified defendant at lineup, which was illegal in having been conducted without notice to counsel, was per se inadmissible, and state was not entitled to opportunity to show that testimony had independent source.**

**Criminal Law**

**State defendant was entitled on remand to new trial or, if no prejudicial error should be found on guilt stage but only in penalty stage, to whatever relief state law might afford where penalty stage must be set aside, where there had been error in admission of testimony that witnesses had identified defendant at illegal lineup.**

# Miranda v. Arizona

#### **Rule of Law**

**Without certain hallmark warnings regarding the right to remain silent and the right to counsel, statements made during custodial interrogation are inadmissible at trial.**

# Wolf v. Colorado

#### **Rule of Law**

**It is a violation of the Due Process Clause of the Fourteenth Amendment for state actors to gather evidence through unreasonable searches and seizures, but such evidence need not be excluded from state criminal proceedings.**

**Florida v. Jimeno**

***Rule of Law***

**The Fourth Amendment allows a law enforcement officer to open a closed container within a suspect’s vehicle if, under the circumstances, it is objectively reasonable to believe the scope of the suspect's consent permits the officer to do so.**

**\*\*GEORGIA v. RANDOLPH\*\***

***Rule of Law***

**The police may not enter a home without a warrant to search for evidence where they obtain consent from an occupant but a co-occupant is present and objects to the search.**

***Georgia v. Randolph* – Police officers may not rely on one co-tenant’s consent to search a residence when the other co-tenant objects.**

**United States v. Matlock**

***Rule of Law***

**The voluntary consent of any joint occupant of a residence to search jointly occupied premises is valid against the co-occupant.**

**Illinois v. Rodriguez**

***Rule of Law***

**Under the Fourth Amendment, the police may enter a home without a warrant if they reasonably believe the person who consents to their presence has the authority to do so.**

**Warden v. Hayden**

#### **Rule of Law**

**(1) The Fourth Amendment permits officers in hot pursuit of a fleeing felon to enter a home, into which the suspect had fled, and search the home without a warrant.**

**(2) The Fourth Amendment permits officers to seize mere evidence of a crime that is not either a fruit or instrumentality of crime or contraband.**

**Chimel v. California**

***Rule of Law***

**Incident to a lawful arrest, a warrantless search of the area in possession and control of the person under arrest is permissible under the Fourth Amendment.**

**In *Chimel*, the Supreme Court clarified the permissible scope of a search incident to arrest.**

**Michigan v. Tyler**

# Johnson v. United States

#### **Rule of Law**

**The Fourth Amendment requires that law enforcement officers present a warrant, received from a neutral magistrate, before they can search an individual’s premises.**

# Fernandez v. California

#### **Rule of Law**

**One occupant’s consent to search a premises is effective under the Fourth Amendment as long as no other occupant who objects to the search is physically present.**

**United States v. Davis**

#### **Rule of Law**

**Searches and Seizures**

**The existence of exigent circumstances, as would justify warrantless entry and search of a home, is a mixed question of law and fact.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Although Court of Appeals accepts underlying fact findings unless they are clearly erroneous, the determination of whether those facts satisfy the legal test of exigency, in context of entry into and search of a home, is subject to de novo review.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Searches and Seizures**

**A principal protection against unnecessary intrusions into private dwellings is the warrant requirement imposed by the Fourth Amendment on agents of the government who seek to enter the home for purposes of search or arrest.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**Probable cause for a search, accompanied by exigent circumstances, will excuse the absence of a warrant.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**When a government agent enters a home without a warrant, burden is on the government to demonstrate exigent circumstances that overcome the presumption of unreasonableness that attaches to all warrantless home entries.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**Determination whether exigent circumstances exist as would justify entry and search of a home ultimately depends on the unique facts of the controversy.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**An officer's warrantless entry of a residence during a domestic call is not exempt from the requirement of demonstrating exigent circumstances.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**Officers' warrantless entry into defendant's home during domestic disturbance call was not justified by any exigent circumstances, even though defendant had lied about whereabouts of his girlfriend; officers had no reasonable grounds to believe that there was immediate danger to their safety, in that defendant was not threatening or aggressive and had no reputation for violence, and officers could have checked girlfriend's condition without entering the home.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=Ib5005e1879d711d99c4dbb2f0352441d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Coolidge v. New Hampshire**

***Rule of Law***

**Under the plain-view doctrine, police may not conduct a warrantless search of an automobile if they expected in advance to find evidence and failed to secure a warrant.**

# State v. Berrios, 235 S.W.3d 99 (Tenn. 2007)

# State v. Berrios

**Rule of Law**

**Criminal Law**

**When a trial court makes findings of fact at the conclusion of a suppression hearing, the findings are binding upon the Supreme Court unless the evidence in the record preponderates against them.**

**Criminal Law**

**With respect to suppression issues, questions of credibility of the witnesses, the weight and value of the evidence, and resolution of conflicts in the evidence are matters entrusted to the trial judge as the trier of fact at the suppression hearing.**

**Criminal Law**

**When reviewing a trial court's ruling on a motion to suppress, the party prevailing in the trial court is entitled to the strongest legitimate view of the evidence adduced at the suppression hearing as well as all reasonable and legitimate inferences that may be drawn from that evidence.**

**Criminal Law**

**When reviewing a trial court's ruling on a motion to suppress, the Supreme Court's review of the trial court's application of law to the facts is de novo, with no presumption of correctness.**

**Criminal Law**

**When a trial court's findings of fact with respect to suppression issues are based entirely on evidence that does not involve issues of witness credibility, appellate courts are as capable as trial courts of reviewing the evidence and drawing conclusions, and the trial court's findings of fact are subject to de novo review.**

**Arrest**

**While arrests and investigatory stops are seizures implicating constitutional protections, consensual encounters are not.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**A seizure does not occur simply because a police officer approaches an individual and asks a few questions.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Searches and Seizures**

**Exceptions to the warrant requirement include searches incident to arrest, plain view, hot pursuit, exigent circumstances, and others, such as the consent to search.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**A seizure does not occur simply because a police officer approaches an individual and asks a few questions.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Searches and Seizures**

**Exceptions to the warrant requirement include searches incident to arrest, plain view, hot pursuit, exigent circumstances, and others, such as the consent to search.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Searches and Seizures**

**Exceptions to the warrant requirement include searches incident to arrest, plain view, hot pursuit, exigent circumstances, and others, such as the consent to search.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**Fourth Amendment applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**Reasonableness is the touchstone of the Fourth Amendment.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**Constitutional protections against unreasonable searches and seizures are designed to safeguard the privacy and security of individuals against arbitrary invasions of government officials.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Evidence obtained as a result of a warrantless search or seizure is subject to suppression unless the state demonstrates that the search or seizure was conducted pursuant to one of the narrowly defined exceptions to the warrant requirement.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Arrest**

**An automobile stop constitutes a “seizure” within the meaning of both the Fourth Amendment and the search-and-seizure provision of the state constitution.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**As a general rule, if police officers have probable cause to believe a traffic violation has occurred, an automobile stop is constitutionally reasonable.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**Law enforcement officer had probable cause to initiate a traffic stop and, consequently, was statutorily authorized to issue a traffic citation, where defendant was driving eight miles per hour over posted limit.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Automobiles**

**Although there is no federal constitutional prohibition against an arrest for a minor traffic offense, state statute precludes full custodial arrest for misdemeanor traffic violation unless statutory exception applies.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. §§ 40–7–118**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNSTS40-7-118&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**,**[**55–10–207(a)(1)**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNSTS55-10-207&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=SP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)#co_pp_7b9b000044381)**,**[**(f)**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNSTS55-10-207&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=SP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)#co_pp_ae0d0000c5150)**.**

**Automobiles**

**Law enforcement officer did not have a reasonable basis during a traffic stop to place defendant, who had been driving, in secured area of officer's patrol car, even though the state argued that officer placed defendant in patrol car to shield him from rain and cold; officer did not write a citation and intended from outset to ask for consent to search, officer had no suspicion that defendant was armed or dangerous when officer frisked defendant and placed him in patrol car, and record established that officer placed defendant in patrol car primarily to determine whether he became more nervous.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**Consent given to a law enforcement officer by defendant to search his vehicle was not sufficiently attenuated from unlawful detention that occurred when officer, during traffic stop, placed defendant in secured area of officer's patrol car; consent was given while defendant was unlawfully detained in patrol car, no temporal separation existed between unlawful detention and consent, no intervening circumstances separated unlawful detention and consent, and consideration of purpose and flagrancy of officer's misconduct weighed marginally in favor of defendant, given that detection of illegal drugs rather than enforcement of traffic laws was apparent purpose of detention.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**Whether an individual voluntarily consents to a search is a question of fact to be determined from the totality of the circumstances.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**A consent to a search must be unequivocal, specific, intelligently given, and uncontaminated by duress or coercion.**[**U.S.C.A. Const.Amend. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Searches and Seizures**

**When determining whether an individual's consent to a search is voluntary, the pertinent question is whether the individual's act of consenting is the product of an essentially free and unconstrained choice; if the individual's will was overborne and his or her capacity for self-determination critically impaired, due process is offended.**[**U.S.C.A. Const.Amends. 4**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**,**[**14**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDXIV&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**West's T.C.A. Const. Art. 1, § 7**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S7&originatingDoc=I31b24f424cf511dca1e6fa81e64372bf&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

# January 21, 2021

# Chapter 4 – Scope of the Exclusionary Rule

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# January 28, 2021

# Midterm Exam 8:20pm-10:00pm – Worth 1/3 of Final Grade

**Criminal Procedure and the Constitution**

**Rules of Law**

**Midterm - Final**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**February 4, 2021**

**Chapter 6 – Section 1- 3 – Police Interrogations and Confessions**

**State v. Philips, 30 S.W.3d 372 (Tenn. Crim. App. 2000)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 6 – Section 1 – The “Voluntariness” Test**

**\*\*ASHCRAFT v. TENNESSEE\*\***

**United States Supreme Court  
322 U.S. 143 (1944)**

#### **Rule of Law**

**Under the Due Process Clauses, confessions obtained through inherently coercive means are deemed involuntary.**

# \*\*SPANO v. NEW YORK\*\*

#### **United States Supreme Court 360 U.S. 315 (1959)**

#### **Rule of Law**

**A confession made after hours of interrogation, during which the defendant has been denied his right to counsel, is not made voluntarily and is therefore inadmissible at trial.**

***Spano v. New York* showed the Court’s movement in the direction of it’s eventual Fifth and Sixth Amendment decisions concerning defendants’ confessions.**

# Brown v. Mississippi

#### **United States Supreme Court 297 U.S. 278 (1936)**

#### **Rule of Law**

**The Due Process Clause of the Fourteenth Amendment requires that state action be consistent with fundamental principles of liberty and justice.**

**Chapter 6 – Section 2 – *Massiah* and *Escobedo***

# \*\*MASSIAH v. UNITED STATES\*\*

#### **United States Supreme Court 377 U.S. 201 (1964)**

#### **Rule of Law**

**A person who has been indicted on criminal charges has as much a constitutional right to have an attorney present during police interrogations as he does during the trial itself.**

# Powell v. Alabama (Scottsboro Boys Trial)

#### **United States Supreme Court 287 U.S. 45 (1932)**

#### **Rule of Law**

**Due process requires that criminal defendants have the right to counsel both at trial and in the time leading up to trial when consultation and preparation take place.**

# \*\*ESCOBEDO v. ILLINOIS\*\*

#### **United States Supreme Court 378 U.S. 478 (1964)**

#### **Rule of Law**

**When an investigation shifts from a general inquiry into an unsolved crime to a focus on a particular suspect, that suspect has been taken into police custody for questioning, the suspect has asked for and been denied his lawyer, and the police have not properly warned him of his right to remain silent, any confession made during the remainder of the interrogation is inadmissible.**

**Chapter 6 – Section 3 - *Miranda***

# \*\*MIRANDA v. ARIZONA\*\*

#### **United States Supreme Court 384 U.S. 436 (1966)**

#### **Rule of Law**

**Without certain hallmark warnings regarding the right to remain silent and the right to counsel, statements made during custodial interrogation are inadmissible at trial.**

# Malloy v. Hogan

#### **United States Supreme Court 378 U.S. 1 (1964)**

#### **Rule of Law**

**In state criminal trials, wherever a question arises as to whether a confession is involuntary, the self-incrimination clause of the Fifth Amendment controls the issue.**

# McNabb v. United States

#### **United States Supreme Court 318 U.S. 332 (1943)**

#### **Rule of Law**

**A confession obtained while the suspect is illegally detained is inadmissible in federal cases.**

# Mallory v. United States

#### **United States Supreme Court 354 U.S. 449 (1957)**

#### **Rule of Law**

**A confession obtained while the suspect is illegally detained is inadmissible in federal cases.**

# Crooker v. California

#### **United States Supreme Court 357 U.S. 433 (1958)**

#### **Rule of Law**

**Police do not violate a suspect’s due process rights per se by continuing to interrogate him after denying his specific request to contact his lawyer.**

# Johnson v. Zerbst

#### **United States Supreme Court 304 U.S. 458 (1938)**

#### **Rule of Law**

**The Sixth Amendment guarantees the right of a criminal defendant to a lawyer's assistance, unless the defendant knowingly and intelligently waives that right.**

# Watts v. Indiana

#### **United States Supreme Court 338 U.S. 49 (1949)**

#### **Rule of Law**

**Police procedures that elicit a confession by subjecting a defendant to physical or emotional distress violate constitutional due process requirements.**

# Mapp v. Ohio

#### **United States Supreme Court 367 U.S. 643 (1961)**

#### **Rule of Law**

**Evidence obtained through an unreasonable search and seizure in violation of the Fourth Amendment is inadmissible in state criminal proceedings.**

**The *Mapp* decision extended the exclusionary rule to state courts.**

**State v. Philips, 30 S.W.3d 372 (Tenn. Crim. App. 2000)**

**\*\*STATE v. PHILIPS\*\***

#### **Rule of Law**

**Criminal Law**

**Findings of fact made by trial court at hearing on motion to suppress are binding upon Court of Criminal Appeals unless the evidence contained in record preponderates against them.**

**Criminal Law**

**Court of Criminal Appeals is not bound by trial court's conclusions of law.**

**Criminal Law**

**Defendant was not “in custody” for Miranda purposes when he gave his pretrial statement to investigators from “child protective team,” where defendant came voluntarily to Department of Human Services for interview and was never deprived of freedom of movement to a degree associated with a formal arrest.**

**Criminal Law**

**Non-custodial interrogation must be voluntary to be admissible.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Const. Art. 1, § 9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S9&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Confessions that are “involuntary,” that is, the product of coercion, whether it be physical or psychological, are not admissible.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Const. Art. 1, § 9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S9&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Test of voluntariness of confession under state privilege against self-incrimination is broader and more protective of individual rights than test of voluntariness under federal privilege against self-incrimination.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Const. Art. 1, § 9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S9&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**To determine voluntariness of confession, court must examine particular circumstances of each case.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Const. Art. 1, § 9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S9&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))

**Criminal Law**

**Coercive police activity is a necessary prerequisite to find a confession involuntary.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Const. Art. 1, § 9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S9&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Crucial question for determining voluntariness of confession is whether the behavior of state officials was such as to overbear defendant's will to resist and bring about confess**

**Criminal Law**

**Question of voluntariness of confession must be answered with complete disregard of whether or not the accused was truthful in the statement.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Const. Art. 1, § 9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S9&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Defendant's noncustodial pretrial statement to investigators from “child protective team” was involuntary, where interrogation included: (1) misrepresentations by investigator, (2) numerous steadfast denials by defendant, (3) statements that law enforcement officials would be involved if defendant did not confess, and (4) repeated promises of treatment for defendant and his stepdaughter only if he fully confessed.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Const. Art. 1, § 9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000039&cite=TNCNART1S9&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**The Court of Criminal Appeals, Riley, J., held that defendant's statement was involuntary.**

**Affirmed.**

**The sole issue for review is whether the trial court erred in suppressing the pretrial statement. We find no error.**

**It is the conduct of the investigators leading to the defendant's statement that is the subject of this appeal.**

**Based upon the testimony at the hearing and the transcript of the interrogation, the trial court found the defendant's pretrial statement to be involuntary and ordered its suppression.**

**We first note that at the time of the pretrial statement the defendant was not “in custody” as contemplated by Miranda**

**Thus, the Miranda requirements are not applicable.**

**Coercive police activity is a necessary prerequisite in order to find a confession involuntary**

**The crucial question is whether the behavior of the state's officials was “such as to overbear petitioner's will to resist and bring about confessions not freely self-determined.**

**The actions of the interrogators were much more coercive than those found in**[**Smith**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1996251591&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**and, unlike**[**Smith,**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1996251591&originatingDoc=I4001c6f4e7b711d98ac8f235252e36df&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**crossed the line.**

**Accordingly, we AFFIRM the judgment of the trial court. Based upon the state's representation to the trial court and this Court that the state may not proceed with further prosecution absent the defendant's pretrial statement, the indictment is DISMISSED.**

**Rogers v. Richmond**

#### **Rule of Law**

**The Supreme Court, Mr. Justice Frankfurter, J., held that the test of the admissibility of confessions as voluntary was whether the state officials' behavior had been such as to overbear the defendant's will to resist and bring about confessions not freely self-determined, not the probable truth or falsity of the confessions, and that the federal courts would not determine whether the confessions would have met an adequate test.**

**State v. Anderson**

#### **Rule of Law**

**The Supreme Court,**[**Anderson**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0157496001&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink)&analyticGuid=Idd7e0e28e7d011d99439b076ef9ec4de)**, J., held that test to determine whether individual is in custody for purposes of**[***Miranda***](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1966131580&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink))**is objective from viewpoint of individual being questioned, and unarticulated, subjective view of law enforcement officials that such individual is or is not a suspect is irrelevant, overruling *[](https://1.next.westlaw.com/Link/RelatedInformation/Flag?documentGuid=Idd5255c4ec5b11d99439b076ef9ec4de&transitionType=InlineKeyCiteFlags&originationContext=docHeaderFlag&Rank=0&RuleBookModeDisplay=False&contextData=(sc.DocLink))***[***State v. Morris***](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1970138176&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink))***.***

**State v. Stephenson**

#### **Rule of Law**

**The Supreme Court,**[**Anderson**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0157496001&originatingDoc=Ia7fe08bfe7c411d9bf60c1d57ebc853e&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink)&analyticGuid=Ia7fe08bfe7c411d9bf60c1d57ebc853e)**, J., held that:**

**(1) failure of law enforcement officials to inform defendant that attorney was present and attempting to see him did not invalidate waiver of Mirandarights;**

**(2) defendant equivocally invoked right to counsel by asking law enforcement officer whether defendant needed attorney;**

**(3) there is no statutory, common-law, or constitutional right to allocution in capital case; and**

**(4) reversal of death sentence was required by failure to require jury to determine whether state proved beyond a reasonable doubt that statutory aggravating circumstance outweighed any mitigating circumstances.**

**Monts v. State**

#### **Rule of Law**

**The Supreme Court, White, J., held that evidence sustained the convictions and the finding that confession of one of the two defendants, made after he had been advised by police officers of right to remain silent, was freely and voluntarily given was not against the preponderance of the evidence.**

**State v. Brimmer**

#### **Rule of Law**

**The Supreme Court,**[**O'Brien**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0291723201&originatingDoc=I20b88f08e7c511d983e7e9deff98dc6f&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink)&analyticGuid=I20b88f08e7c511d983e7e9deff98dc6f)**, J., held that:**

**(1) evidence was sufficient for conviction;**

**(2) evidence was sufficient to support finding of aggravating circumstance of murder in perpetration of robbery; and**

**(3) death sentence was not disproportionate or excessive.**

**State v. Kelly**

#### **Rule of Law**

**the Supreme Court, Brock, C. J., held that:**

**(1) evidence did not preponderate against finding that defendant's confession was voluntary, but**

**(2) failure to instruct jury that it could fix maximum sentence at minimum prescribed by statute was reversible error.**

**State v. Smith**

#### **Rule of Law**

**The Supreme Court,**[**Birch**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0259809301&originatingDoc=Idd7386e0e7d011d99439b076ef9ec4de&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.DocLink)&analyticGuid=Idd7386e0e7d011d99439b076ef9ec4de)**, C.J., held that:**

**(1) defendant was not “in custody” when he met with mental health counselor;**

**(2) social worker with Department of Human Services (DHS) did not coerce defendant's statements by referring him to counseling; and**

**(3) admission of defendant's statements to counselor did not violate defendant's due process rights.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**February 11, 2021**

**Chapter 6 – Section 4 – Applying and Explaining *Miranda***

**Part 1 – What is Custody; State v. Anderson, 937 S.W.2d 851 (Tenn.1996)**

**Part 2 – What is Interrogation; State v. Sawyer, 156 S.W.3d 531 (Tenn. 2005)**

**Part 3 – Waiver of Right to Remain Silent**

**Part 4 – Wavier of Right to Counsel**

**Part 5 – Break in Miranda Custody and the Right to Counsel**

**Part 6 – Police Initiated Interrogation After Appointment of Counsel**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 6 – Section 4 – Applying and Explaining *Miranda***

**Part 1 – What is Custody; State v. Anderson, 937 S.W.2d 851 (Tenn.1996)**

**\*\*J.D.B. v. NORTH CAROLINA\*\***

**United States Supreme Court  
564 U.S. 261 (2011)**

#### **Rule of Law**

**The age of a child subjected to police questioning is relevant to whether the child is in custody under *Miranda*.**

# Yarborough v. Alvarado

#### **United States Supreme Court 541 U.S. 652 (2004)**

#### **Rule of Law**

**The reasonable person standard of the *Miranda*custody test does not require courts to consider a suspect’s age.**

# \*\*HOWES v. FIELDS\*\*

#### **United States Supreme Court 565 U.S. 499 (2012)**

#### **Rule of Law**

***Miranda*warnings are not required to interrogate an incarcerated prisoner who is told he or she is free to end questioning and return to his or her cell.**

**Berkemer v. McCarty**

**United States Supreme Court  
468 U.S. 420 (1984)**

#### **Rule of Law**

**Police must issue *Miranda*warnings prior to all custodial interrogations, regardless of the nature or severity of the offense.**

**Maryland v. Shatzer**

**United States Supreme Court  
130 S. Ct. 1213 (2010)**

#### **Rule of Law**

**A break in custody ends the presumption of involuntariness established in *Edwards v. Arizona*.**

# Edwards v. Arizona

#### **United States Supreme Court 451 U.S. 477 (1981)**

#### **Rule of Law**

**Once a suspect has received his *Miranda* warnings and invoked his right to counsel, the police may not further interrogate the suspect until the suspect has been given access to counsel, unless the suspect initiates further communication with the police.**

**State v. Anderson**

#### **Rule of Law**

**Criminal Law**

**Prior to custodial interrogation, *Miranda* requires that police inform person being questioned that he has right to remain silent, any statement made may be used against him, he has right to presence of attorney, and if he cannot afford attorney, one will be appointed for him prior to questioning, if he so desires.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Factors relevant to objective assessment of whether suspect is “in custody” for purposes of Miranda include time and location of interrogation, duration and character of questioning, officer's tone of voice and general demeanor, suspect's method of transportation to place of questioning, number of police officers present, any limitation on movement or other form of restraint imposed on suspect during interrogation, any interactions between officer and suspect, extent to which suspect is confronted with law enforcement officer's suspicions of guilt or evidence of guilt, and finally, extent to which suspect is made aware that he or she is free to refrain from answering questions or to end interview at will.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Evaluating whether individual is “in custody” for purposes of Miranda is fact specific inquiry, and totality of circumstances surrounding each interrogation must be closely examined.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Appropriate inquiry in determining whether individual is “in custody” and entitled to Miranda warnings is whether, under totality of circumstances, reasonable person in suspect's position would consider himself or herself deprived of freedom of movement to degree associated with formal arrest.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Criminal Law**

**Test to determine whether individual is “in custody” for purposes of Miranda is objective from viewpoint of individual being questioned, and unarticulated, subjective view of law enforcement officials that such individual is or is not a suspect is irrelevant; overruling [](https://1.next.westlaw.com/Link/RelatedInformation/Flag?documentGuid=Idd5255c4ec5b11d99439b076ef9ec4de&transitionType=InlineKeyCiteFlags&originationContext=docHeaderFlag&DocSource=934bdc642ac741aaab5139198b8422a0&Rank=1&RuleBookModeDisplay=False&contextData=(sc.Search))**[***State*v. Morris, 456 S.W.2d 840.**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1970138176&pubNum=713&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000546&cite=USCOAMENDV&originatingDoc=Idd7e0e28e7d011d99439b076ef9ec4de&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Part 2 – What is Interrogation; State v. Sawyer, 156 S.W.3d 531 (Tenn. 2005)**

**\*\*RHODE ISLAND v. INNIS\*\***

**United States Supreme Court  
446 U.S. 291 (1980)**

**Rule of Law**

**Under *Miranda*, “interrogation” refers to any words or actions on the part of the police that the police should know are reasonably likely to elicit an incriminating response from the suspect.**

**Arizona v. Mauro**

#### **Rule of Law**

**Criminal Law**

**When accused has expressed desire to deal with police only through counsel, accused is not subject to further interrogation by authorities until counsel has been made available, unless accused initiates further communication, exchanges, or conversations with police.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDV&originatingDoc=Ic1e396179c1e11d991d0cc6b54f12d4d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

**Criminal Law**

**Defendant who had asserted right to counsel was not subjected to interrogation or its functional equivalent when police allowed defendant's wife to speak with defendant in presence of officer and tape recorded their conversation, even though officers were aware of possibility that defendant would incriminate himself while talking to wife; officer present asked defendant no questions about the crime or his conduct, and there was no showing that officers sent wife in to see defendant for purpose of eliciting incriminating statements.**[**U.S.C.A. Const.Amend. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDV&originatingDoc=Ic1e396179c1e11d991d0cc6b54f12d4d&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Default))**.**

# \*\*ILLINOIS v. PERKINS\*\*

#### **United States Supreme Court 496 U.S. 292 (1990)**

**Rule of Law**

**An undercover officer does not have to provide *Miranda* warnings to an incarcerated person before engaging in questioning that could induce incriminating statements.**

# Hoffa v. United States

#### **United States Supreme Court 385 U.S. 293 (1966)**

#### **Rule of Law**

**The Fourth Amendment does not protect a wrongdoer’s misplaced belief that a person to whom he voluntarily confides his wrongdoing will not reveal it.**

# United States v. Henry

#### **United States Supreme Court 447 U.S. 264 (1980)**

#### **Rule of Law**

**Statements made by an accused in custody to a covert government informant may not be admitted at trial without violating the Sixth Amendment right to counsel.**

# Maine v. Moulton

#### **United States Supreme Court 474 U.S. 159 (1985)**

#### **Rule of Law**

**Evidence obtained with the intent to frustrate a criminal defendant’s Sixth Amendment right to counsel is not admissible for purposes of proving the defendant’s guilt in the charges to which the evidence pertains.**

**State v. Sawyer, 156 S.W.3d 531 (Tenn. 2005)**

**State v. Sawyer**

#### **Rule of Law**

**Criminal Law**

**The findings of fact made by the trial court at a hearing on a motion to suppress are binding upon an appellate court unless the evidence contained in the record preponderates against those findings.**

**Criminal Law**

**As trier of fact, the trial court has the ability to assess the credibility of the witnesses, determine the weight and value to be afforded the evidence, and resolve any conflicts in the evidence.**

**Criminal Law**

**Police officers reading affidavit of complaint to defendant was functional equivalent of interrogation, and thus, without**[**Miranda**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1966131580&originatingDoc=I7eeea8bce7e411d9b386b232635db992&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**warning, statement was not voluntary; officers informed defendant of charge, arrested him, and statedthey would go to jail to discuss, defendant was transported to office at sheriff's department and placed in chair in front of desk, and officer sat directly across from him, approximately 30 minutes following arrest, officer read arrest warrant, officer had not advised defendant of his**[**Miranda**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1966131580&originatingDoc=I7eeea8bce7e411d9b386b232635db992&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**rights prior to reading affidavit, and defendant made statement only after hearing detailed allegations contained in affidavit.**

**Criminal Law**

**Police are required to advise a defendant being questioned while in custody that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.**

**Criminal Law**

**An officer must provide**[**Miranda**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1966131580&originatingDoc=I7eeea8bce7e411d9b386b232635db992&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**warnings to an accused when the accused is in custody and is subjected to interrogation or its functional equivalent.**

**Criminal Law**

**“Interrogation” refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect.**

**Criminal Law**

**“Interrogation” includes any practice that the police should know is likely to evoke an incriminating response from a suspect.**

**Criminal Law**

**The definition of interrogation focuses primarily upon the accused's perception rather than on the police officer's intent; however, the officer's intent may be relevant to determine whether the officer should have known his or her words or actions were reasonably likely to invoke an incriminating response.**

**Part 3 – Waiver of Right to Remain Silent**

# \*\*BERGHUIS v. THOMPKINS\*\*

#### **United States Supreme Court 130 S. Ct. 2250 (2010)**

#### **Rule of Law**

**Where a defendant does not invoke his right to remain silent after fully understanding his *Miranda* rights, he implicitly waives his *Miranda* rights by making a voluntary statement to police.**

# Davis v. United States

#### **United States Supreme Court 512 U.S. 452 (1994)**

#### **Rule of Law**

**Under *Edwards v. Arizona*, 451 U.S 477 (1981), police are only required to stop a custodial interrogation if the suspect has unambiguously requested an attorney.**

# North Carolina v. Butler

#### **United States Supreme Court 441 U.S. 369 (1979)**

**Rule of Law**

**A suspect need not make an express statement waiving his right to counsel.**

# Colorado v. Connelly

#### **United States Supreme Court 479 U.S. 157 (1986)**

**Rule of Law**

**Under the Due Process Clause, a statement may only be deemed involuntary and therefore inadmissible if there was coercion by police.**

# Michigan v. Mosley

#### **United States Supreme Court 423 U.S. 96 (1975)**

**Rule of Law**

***Miranda v. Arizona*. 384 U.S. 436 (1966) does not bar police from subsequently questioning a suspect who previously invoked his right to remain silent, as long as the suspect’s right to end questioning has been scrupulously honored.**

**Part 4 – Wavier of Right to Counsel**

# \*\*SALINAS v. TEXAS\*\*

#### **United States Supreme Court 570 U.S. 178 (2013)**

#### **Rule of Law**

**A witness’s silence in response to a law enforcement official’s question is not sufficient to invoke the witness’s right against self-incrimination, even when the official believes the answer may incriminate the witness.**

# Doyle v. Ohio

#### **United States Supreme Court 426 U.S. 610 (1976)**

**Rule of Law**

**A criminal defendant’s due-process rights are violated if the trial court allows the prosecution to cross-examine the defendant about an exculpatory version of events that the defendant did not reveal to police after receiving *Miranda*warnings.**

# Jenkins v. Anderson

#### **United States Supreme Court 447 U.S. 231 (1980)**

#### **Rule of Law**

**Use for impeachment purposes of a defendant’s silence prior to arrest does not violate the defendant’s Fifth and Fourteenth Amendment rights.**

# Garrity v. New Jersey

#### **Supreme Court of the United States 385 U.S. 493 (1967)**

#### **Rule of Law**

**The Fourteenth Amendment prohibits the use in criminal proceedings of incriminating statements made by public employees under threat of termination.**

**Lefkowitz v. Turley**

**United States Supreme Court  
414 U.S. 70 (1973)**

**Rule of Law**

**A state may not compel an employee to waive his constitutional right of immunity under the Fifth Amendment by threatening him with loss of employment.**

**Part 5 – Break in Miranda Custody and the Right to Counsel**

# \*\*MARYLAND v. SHATZER\*\*

#### **United States Supreme Court 130 S. Ct. 1213 (2010)**

#### **Rule of Law**

**A break in custody ends the presumption of involuntariness established in *Edwards v. Arizona*.**

# Minnick v. Mississippi

#### **United States Supreme Court 498 U.S. 146 (1990)**

#### **Rule of Law**

**Once a suspect has requested an attorney, police may not conduct an interrogation without counsel present.**

# County of Riverside v. McLaughlin

#### **United States Supreme Court 500 U.S. 44 (1991)**

#### **Rule of Law**

**A judicial determination of probable cause made within 48 hours of arrest is generally sufficiently prompt.**

# Gerstein v. Pugh

#### **United States Supreme Court 420 U.S. 103 (1975)**

#### **Rule of Law**

**A defendant charged with a crime by information may not be detained for an extended period of time without a judicial determination of probable cause.**

# United States v. Patane

#### **United States Supreme Court 542 U.S. 630 (2004)**

#### **Rule of Law**

**Because the introduction of physical evidence at trial does not implicate the Self-Incrimination Clause, suppression of physical evidence found as a result of a suspect’s voluntary but unwarned statements is not required.**

**Michigan v. Jackson**

**United States Supreme Court  
475 U.S. 625 (1986)**

**Rule of Law**

**Under the Sixth Amendment, police may not initiate questioning outside the presence of counsel of a defendant who requested an attorney at arraignment.**

**Part 6 – Police Initiated Interrogation After Appointment of Counsel**

# \*\*MONTEJO v. LOUISIANA\*\*

#### **United States Supreme Court 556 U.S. 778 (2009)**

#### **Rule of Law**

**Police may seek a knowing and voluntary waiver of a defendant's right to have counsel present during interactions with the police, even after the defendant's Sixth Amendment rights have attached and become operative.**

# United States v. Leon

#### **United States Supreme Court 468 U.S. 897 (1984)**

#### **Rule of Law**

**Evidence obtained in reasonable, good-faith reliance on a facially valid search warrant is not subject to the Fourth Amendment's exclusionary rule, even if the warrant is later deemed defective.**

**Patterson v. Illinois**

**United States Supreme Court  
487 U.S. 285 (1988)**

**Rule of Law**

**Provided a defendant is made aware of the dangers and disadvantages of representing himself, by use of the *Miranda* warnings, his waiver of his Sixth Amendment right to counsel during post-indictment questioning is knowing and intelligent.**

# New York v. Belton

#### **United States Supreme Court 453 U.S. 454 (1981)**

#### **Rule of Law**

**Incident to a lawful arrest, the police may search the area within the arrestee’s immediate control.**

**Arizona v. Gant**

**United States Supreme Court  
129 S.Ct. 1710 (2009)**

#### **Rule of Law**

**Police may search a vehicle after a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe that crime-related evidence is located in the vehicle.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**February 18, 2021**

**Chapter 6 – Section 4 – Applying and Explaining *Miranda***

**Part 7 – Public Safety Exception**

**Part 8 – Physical Evidence Obtained in Violation of *Miranda***

**Part 9 – Failure of Police to Inform Suspect that Lawyer is Present after Valid *Miranda* Waiver**

**Chapter 6, Section 5 – The Court Reaffirms *Miranda***

**Chapter 6, Section 6 – When is *Miranda* Violated?**

**Chapter 6, Section 7 – *Massiah* Revisited**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 6 – Section 4 – Applying and Explaining *Miranda***

**Part 7 – Public Safety Exception**

**\*\*NEW YORK V. QUARLES\*\***

**United States Supreme Court  
467 U.S. 649 (1984)**

#### **Rule of Law**

**There is a public-safety exception to the requirement that *Miranda* warnings be given before a suspect’s statements may be admitted into evidence at trial.**

**United States v. Washington**

**United States Court of Appeals for the Fourth Circuit  
41 F.3d 917 (1994)**

**Rule of Law**

**The concept of intent to distribute illegal drugs includes sharing drugs with a third party.**

# Nix v. Williams

#### **United States Supreme Court 467 U.S. 431 (1984)**

#### **Rule of Law**

**Evidence obtained in violation of the Sixth Amendment may be admitted if police would have inevitably discovered it.**

**Part 8 – Physical Evidence Obtained in Violation of *Miranda***

# \*\*UNITED STATES v. PATANE\*\*

#### **United States Supreme Court 542 U.S. 630 (2004)**

#### **Rule of Law**

**Because the introduction of physical evidence at trial does not implicate the Self-Incrimination Clause, suppression of physical evidence found as a result of a suspect’s voluntary but unwarned statements is not required.**

# Oregon v. Elstad

#### **United States Supreme Court 470 U.S. 298 (1985)**

#### **Rule of Law**

**A suspect can make a statement that is admissible in court after being read his *Miranda* warnings, even when he previously made an unwarned statement, because the initial failure to read a suspect his *Miranda* warnings does not taint later voluntary statements.**

# Chavez v. Martinez

#### **United States Supreme Court 538 U.S. 760 (2003)**

#### **Rule of Law**

**(1) The Fifth Amendment is not violated by a coercive interrogation if the suspect's confession is never used in a criminal case.**

**(2) A coercive interrogation may violate substantive due process even if the suspect's confession is never used in a criminal case.**

# United States v. Hubbell

#### **United States Supreme Court 530 U.S. 27 (2000)**

#### **Rule of Law**

**(1) The Fifth Amendment protects a witness from being compelled to disclose the existence of incriminating documents that the government is unable to describe with reasonable particularity because the act of producing those documents is testimonial.**

**(2) If the government grants a witness immunity to overcome his Fifth Amendment privilege against self-incrimination and compel production of documents, evidence derived from those documents cannot be used in a later criminal prosecution against that witness.**

# Kastigar v. United States

#### **United States Supreme Court 406 U.S. 441 (1972)**

#### **Rule of Law**

**The government may compel testimony from a witness who has invoked the Fifth Amendment right to silence by giving that witness immunity from use of both the compelled testimony and any evidence derived from that testimony in a subsequent criminal proceeding.**

# \*\*MISSOURI v. SEIBERT\*\*

#### **United States Supreme Court 542 U.S. 600 (2004)**

#### **Rule of Law**

**A second confession after a *Miranda* waiver is admissible only if there was a long enough break following the initial confession without a *Miranda* waiver to give a reasonable suspect the belief that he or she had a right not to speak to officers.**

**Part 9 – Failure of Police to Inform Suspect that Lawyer is Present after Valid *Miranda* Waiver**

# \*\*MORAN v. BURBINE\*\*

#### **United States Supreme Court  475 U.S. 412 (1986)**

#### **Rule of Law**

**If a suspect has knowingly waived his *Miranda* rights, officers' deception of a lawyer seeking to represent the suspect and their refusal to inform the suspect that his family had obtained a lawyer for him does not invalidate the suspect's *Miranda*waiver.**

# Colorado v. Spring

#### **United States Supreme Court 479 U.S. 564 (1987)**

#### **Rule of Law**

**A suspect’s awareness of all the possible subjects of questioning in advance of interrogation is not relevant to determining whether the suspect voluntarily, knowingly, and intelligently waived his Fifth Amendment privilege.**

**Chapter 6, Section 5 – The Court Reaffirms *Miranda***

# \*\*DICKERSON v. UNITED STATES\*\*

#### **United States Supreme Court 530 U.S. 428 (2000)**

#### **Rule of Law**

**Congress cannot legislatively supersede a decision by the United States Supreme Court that interprets and applies the Constitution.**

# Bram v. United States

#### **United States Supreme Court 168 U.S. 532 (1897)**

#### **Rule of Law**

**To be admissible at trial, a confession must be voluntary and may not be coerced by fear, no matter how slightly the emotion is implanted.**

# City of Boerne v. Flores

#### **United States Supreme Court 521 U.S. 507 (1997)**

#### **Rule of Law**

**In exercising its remedial and preventive power to enforce a constitutional right under Section 5 of the Fourteenth Amendment, Congress may enact only legislation that utilizes congruent and proportional means for to achieving that legislative purpose.**

# Marbury v. Madison

#### **United States Supreme Court 5 U.S. (1 Cranch) 137 (1803)**

#### **Rule of Law**

**The Supreme Court of the United States has the authority to review laws and legislative acts to determine whether they comply with the United States Constitution.**

# North Carolina v. Pearce

#### **United States Supreme Court 395 U.S. 711 (1969)**

#### **Rule of Law**

**When a criminal defendant is reconvicted of an offense after being granted a new trial, it is unconstitutional to deny credit for time already served and it is unconstitutional for the court to impose a longer sentence in the absence of a finding of conduct subsequent to the original conviction that will justify imposing a longer sentence.**

# United States v. Goodwin

#### **United States Supreme Court 457 U.S. 368 (1982)**

#### **Rule of Law**

**A presumption of vindictiveness does not arise from the addition of new charges after a defendant demands a jury trial.**

**Chapter 6, Section 6 – When is *Miranda* Violated?**

# \*\*CHAVEZ v. MARTINEZ\*\*

#### **United States Supreme Court 538 U.S. 760 (2003)**

#### **Rule of Law**

**(1) The Fifth Amendment is not violated by a coercive interrogation if the suspect's confession is never used in a criminal case.**

**(2) A coercive interrogation may violate substantive due process even if the suspect's confession is never used in a criminal case.**

**County of Sacramento v. Lewis**

**United States Supreme Court  
523 U.S. 833 (1998)**

**Rule of Law**

**A specific action by a state official violates substantive due process under the Fourteenth Amendment when it is deliberate and thus constitutes “arbitrary conduct shocking to the conscience” and violates the “decencies of civilized conduct.”**

# Mincey v. Arizona

#### **United States Supreme Court 437 U.S. 385 (1978)**

#### **Rule of Law**

**The fact that a homicide has occurred does not justify making an exception to the rule that police must obtain a warrant prior to searching a suspect’s home.**

**Chapter 6, Section 7 – *Massiah* Revisited**

# \*\*BREWER v. WILLIAMS\*\*

#### **United States Supreme Court 430 U.S. 387 (1977)**

#### **Rule of Law**

**A defendant has not effectively waived his right to counsel if, at the advice of counsel, he continues to invoke his right to remain silent until he has the opportunity to confer with his attorney but then makes a statement after being subject to police interrogation.**

# Texas v. Cobb

#### **United States Supreme Court 532 U.S. 162 (2001)**

#### **Rule of Law**

**A criminal defendant's Sixth Amendment right to counsel is offense-specific and does not attach to the investigation of unrelated offenses arising from the same set of facts that led to the original charge.**

# Stone v. Powell

#### **United States Supreme Court 428 U.S. 465 (1976)**

#### **Rule of Law**

**Federal district courts should not hear habeas corpus petitions based on claims that illegally obtained evidence was admitted at trial if there has been a full and fair review at the state level.**

# United States v. Janis

#### **United States Supreme Court 428 U.S. 433 (1976)**

#### **Rule of Law**

**The Fourth Amendment may serve as the basis for excluding from a federal criminal trial evidence seized by a federal officer in violation of the Amendment.**

# Faretta v. California

#### **United States Supreme Court 422 U.S. 806 (1975)**

#### **Rule of Law**

**The right to defend is personal and defendants have the constitutional right to represent themselves at trial if they so choose.**

# \*\*KUHLMAN v. WILSON\*\*

#### **United States Supreme Court 477 U.S. 436 (1986)**

#### **Rule of Law**

**The Sixth Amendment does not require suppression of statements made by a prisoner to a covert police informant if the informant only listened passively and did not deliberately elicit those statements.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**February 25, 2021**

**Chapter 7 – Pretrial Identification Procedures**

**Neil v. Biggers, 409 U.S. 188 (1972)**

**State v. Scarborough, 300 S.W.3d 717 (2009)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 7 – Pretrial Identification Procedures**

# \*\*UNITED STATES v. WADE\*\*

#### **United States Supreme Court 388 U.S. 218 (1967)**

**Rule of Law**

**A post-indictment witness identification of a criminal suspect, conducted without notice to and in the absence of the suspect's counsel, violates the Sixth Amendment right to the assistance of counsel.**

# Stovall v. Denno

#### **United States Supreme Court 388 U.S. 293 (1967)**

**Rule of Law**

**An in-person confrontation between a single suspect and an eyewitness does not violate the suspect’s due-process rights if the totality of the circumstances demonstrates that the confrontation was necessary.**

# Chapman v. California

#### **United States Supreme Court 386 U.S. 18 (1967)**

#### **Rule of Law**

**In order for a federal constitutional error to be held harmless, the court must be able to declare a belief that it was harmless beyond a reasonable doubt.**

# \*\*KIRBY v. ILLINOIS\*\*

#### **United States Supreme Court 406 U.S. 682 (1972)**

#### **Rule of Law**

**Under the Sixth Amendment, police may conduct an identification outside the presence of counsel before a suspect has been formally charged with a crime.**

# United States v. Ash

#### **United States Supreme Court 413 U.S. 300 (1973)**

#### **Rule of Law**

**Under the Sixth Amendment, police may conduct a post-indictment photo lineup outside the presence of counsel.**

# \*\*MANSON v. BRATHWAITE\*\*

#### **United States Supreme Court 432 U.S. 98 (1977)**

#### **Rule of Law**

**Where a defendant claims that his right to due process of law has been violated because of the manner in which he was forced to confront a witness, the court must look to the reliability of the identification to determine whether it is admissible.**

# \*\*PERRY v. NEW HAMPSHIRE\*\*

#### **United States Supreme Court 132 S.Ct. 716 (2012)**

#### **Rule of Law**

**A suggestive identification procedure does not violate due process if the police are not involved in creating the suggestive circumstances.**

**Neil v. Biggers, 409 U.S. 188 (1972)**

# \*\*NEIL v. BIGGERS\*\*

#### **United States Supreme Court 409 U.S. 188 (1972)**

#### **Rule of Law**

**Under the Due Process Clause, identification evidence may be admitted even if the procedure was suggestive so long as the identification is reliable.**

**State v. Scarborough, 300 S.W.3d 717 (2009)**

**State v. Scarborough**

**300 S.W.3d 717**

**Court of Criminal Appeals of Tennessee,**

**at Knoxville.**

**STATE of Tennessee**

**v.**

**Bruce Warren SCARBOROUGH.**

**No. E2007–01856–CCA–R3–CD.**

**July 29, 2008 Session.March 17, 2009.Application for Permission to AppealDenied by Supreme CourtAug. 17, 2009.**

**Synopsis**

**Background: Defendant was convicted by jury in the Criminal Court, Knox County,**[**Mary Beth Leibowitz**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0261571101&originatingDoc=Iab48187d140e11deb6a3a099756c05b7&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Iab48187d140e11deb6a3a099756c05b7)**, J., of two counts of aggravated rape, Class A felonies, and he was sentenced to consecutive terms of 60 years as a career offender in the Department of Correction. Defendant appealed.**

**Holdings: The Court of Criminal Appeals,**[**Joseph M. Tipton**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0151459001&originatingDoc=Iab48187d140e11deb6a3a099756c05b7&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Iab48187d140e11deb6a3a099756c05b7)**, P.J., held that:**

[**1**](https://1.next.westlaw.com/Document/Iab48187d140e11deb6a3a099756c05b7/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af000000177d63b6d884d6aa399%3FpcidPrev%3D2f58f0384e354318bda5d0b6e2499f0f%26Nav%3DCASE%26fragmentIdentifier%3DIab48187d140e11deb6a3a099756c05b7%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=076fe120a513cf1fbb225cb3355e300c&list=CASE&rank=1&sessionScopeId=db57dc7ecf42d03229278314058df0e0bfb6ec8b96fe3dded19645dc755b32c3&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F92018382652)**even though photographic array may have been suggestive, victim's identification of defendant was reliable, and**

[**2**](https://1.next.westlaw.com/Document/Iab48187d140e11deb6a3a099756c05b7/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af000000177d63b6d884d6aa399%3FpcidPrev%3D2f58f0384e354318bda5d0b6e2499f0f%26Nav%3DCASE%26fragmentIdentifier%3DIab48187d140e11deb6a3a099756c05b7%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=076fe120a513cf1fbb225cb3355e300c&list=CASE&rank=1&sessionScopeId=db57dc7ecf42d03229278314058df0e0bfb6ec8b96fe3dded19645dc755b32c3&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F192018382652)**consecutive sentences of 60 years were appropriate.**

**Affirmed.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**March 4, 2021**

**Chapter 5 – The Right to Counsel**

**Chapter 17 – Sections 1 and 2**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 5 – The Right to Counsel**

**\*\*BETTS v. BRADY\*\***

**United States Supreme Court  
316 U.S. 455 (1942)**

#### **Rule of Law**

**Under the Due Process Clause of the Fourteenth Amendment, states are not required to appoint counsel for a criminal defendant unable to secure her own in all cases, provided that the trial is fundamentally fair.**

# \*\*GIDEON v. WAINWRIGHT\*\*

#### **United States Supreme Court 372 U.S. 335 (1963)**

#### **Rule of Law**

**The Fourteenth Amendment incorporates the Sixth Amendment right to counsel to the states.**

# Palko v. Connecticut

#### **United States Supreme Court 302 U.S. 319 (1937)**

#### **Rule of Law**

**A state law allowing the prosecution to appeal the results of a criminal conviction by jury trial does not violate the Due Process Clause of the Fourteenth Amendment.**

# \*\*ALABAMA v. SHELTON\*\*

#### **United States Supreme Court 535 U.S. 654 (2002)**

#### **Rule of Law**

**The right to counsel extends to defendants that have a suspended sentence which could lead to imprisonment.**

# Argersinger v. Hamlin

#### **United States Supreme Court 407 U.S. 25 (1972)**

#### **Rule of Law**

**The Sixth Amendment right to counsel extends to defendants charged with any offense that carries a possible penalty of imprisonment.**

**Scott v. Illinois**

**United States Supreme Court  
440 U.S. 367 (1979)**

**Rule of Law**

**The Sixth and Fourteenth Amendments require that no indigent defendant be sentenced to a term of imprisonment unless the state has afforded him the right to the assistance of appointed counsel.**

# Nichols v. United States

#### **United States Supreme Court 511 U.S. 738 (1994)**

#### **Rule of Law**

**An uncounseled misdemeanor conviction can still be used to enhance a prison sentence when, after being given counsel, a defendant is convicted of a second crime.**

**Gagnon v. Scarpelli**

**United States Supreme Court  
411 U.S. 778 (1973)**

**Rule of Law**

**A probationer or parolee does not have an absolute due process right to be afforded counsel at revocation hearings.**

**\*\*ROTHGERY v. GILLESPIE COUNTY, TX\*\***

**United States Supreme Court  
554 U.S. 191 (2008)**

#### **Rule of Law**

**The right to counsel attaches at a criminal defendant’s initial appearance before a judicial officer where he is told the charges against him and his liberty is subject to restriction.**

# \*\*DOUGLAS v. CALIFORNIA\*\*

#### **United States Supreme Court 372 U.S. 353 (1963)**

#### **Rule of Law**

**An indigent defendant has a right to have counsel appointed during the defendant's first appeal as a matter of right.**

# Mayer v. City of Chicago

#### **United States Supreme Court 404 U.S. 189 (1971)**

#### **Rule of Law**

**A state may not limit the provision of free transcripts only to felony defendants unless the state can show that a defendant will not be denied an effective appeal by the provision of some alternative to a transcript.**

# \*\*ROSS v. MOFFITT\*\*

#### **United States Supreme Court 417 U.S. 600 (1974)**

#### **Rule of Law**

**An indigent defendant is not entitled to representation at state expense for discretionary appeals.**

# Wilson v. Lane

#### **Supreme Court of Georgia 614 S.E.2d 88 (2005)**

#### **Rule of Law**

**To prove lack of testamentary capacity, the party challenging the will must present proof showing that the testator’s condition prevented her from having a decided and rational desire as to the disposition of her property.**

# Ake v. Oklahoma

#### **United States Supreme Court 470 U.S. 68 (1985)**

#### **Rule of Law**

**When the sanity of a defendant is likely to be at issue in criminal proceedings, the Constitution requires the state to provide the services of a psychiatrist.**

**Chapter 17 – Sections 1 and 2**

# \*\*STRICKLAND v. WASHINGTON\*\*

#### **United States Supreme Court 466 U.S. 668 (1984)**

#### **Rule of Law**

**To establish the ineffective assistance of counsel, a convicted defendant must show that his counsel’s performance was deficient because the lawyer did not act as a reasonably competent attorney, and that he was prejudiced by the deficiency because there is a reasonable probability that, but for his attorney’s unprofessional errors, the result of the proceeding would have been different.**

# McMann v. Richardson

#### **United States Supreme Court 397 U.S. 759 (1970)**

#### **Rule of Law**

**A defendant who alleges that he pleaded guilty because of a prior coerced confession is not, without more, entitled to a hearing on his petition for habeas corpus.**

# Geders v. United States

#### **United States Supreme Court 425 U.S. 80 (1976)**

#### **Rule of Law**

**The trial judge has broad powers with which to conduct proceedings, including the order in which parties adduce proof.**

# Brooks v. Tennessee

#### **United States Supreme Court 406 U.S. 605 (1972)**

#### **Rule of Law**

**A state law that requires a criminal defendant to take the stand before any other defense witness or forfeit the right to testify on his own behalf violates constitutional due process requirements and the privilege against self-incrimination.**

# Cuyler v. Sullivan

#### **United States Supreme Court  446 U.S. 335 (1980)**

#### **Rule of Law**

**If a lawyer represents both a criminal defendant and a codefendant, but neither the defendant nor the lawyer objects to the multiple representation, the defendant is not denied the effective assistance of counsel unless the lawyer possessed an actual conflict that adversely affected the lawyer's performance.**

# United States v. Cronic

#### **United States Supreme Court 466 U.S. 648 (1984)**

#### **Rule of Law**

**In the absence of a showing of particularized errors by defense counsel, a defendant claiming a violation of the Sixth Amendment right to the effective assistance of counsel must demonstrate that the totality of the circumstances supports a presumption of ineffective assistance.**

# United States v. Agurs

#### **United States Supreme Court 427 U.S. 97 (1976)**

#### **Rule of Law**

**A prosecutor’s failure to provide information to defense counsel will not deprive a defendant of a fair trial unless specific information was requested by defense counsel or if the withheld information contained perjured testimony.**

# United States v. Gonzalez-Lopez

#### **United States Supreme Court 548 U.S. 140 (2006)**

#### **Rule of Law**

**If a trial court errs by denying a defendant’s choice of counsel, the court must reverse the defendant’s conviction without harmless error analysis.**

# Wheat v. United States

#### **United States Supreme Court 486 U.S. 153 (1988)**

#### **Rule of Law**

**A defendant does not have an unqualified right under the Sixth Amendment to the attorney of his choice if the attorney has represented other defendants charged in the same criminal conspiracy.**

# \*\*HARRINGTON v. RICHTER\*\*

#### **United States Supreme Court 562 U.S. 86 (2011)**

#### **Rule of Law**

**Assistance of counsel is constitutionally ineffective only if it so undermined the proper functioning of the adversarial process that the defendant was denied a fair trial.**

# Bobby v. Van Hook

#### **United States Supreme Court 558 U.S. 4 (2009)**

#### **Rule of Law**

**Professional standards are useful guides as to what reasonableness entails only to the extent they describe the professional norms prevailing when the professional representation took place.**

# Wiggins v. Smith

#### **United States Supreme Court 539 U.S. 510 (2003)**

#### **Rule of Law**

**A defense attorney’s failure to investigate, which supports his decision not to introduce mitigating evidence of his client’s background, represents ineffective assistance of counsel under the Sixth Amendment.**

# Yarborough, Warden v. Gentry

#### **United States Supreme Court 540 U.S. 1 (2003)**

#### **Rule of Law**

**A closing statement made by defense counsel does not violate the Sixth Amendment right to effective counsel even if that statement is deficient in some respects, and deference should not be taken away from state courts’ judgment concerning this matter.**

# \*\*LAFLER v. COOPER\*\*

#### **United States Supreme Court 566 U.S. 156 (2012)**

#### **Rule of Law**

**The Sixth Amendment guarantees effective assistance of counsel during the plea-bargaining process even if the defendant ultimately receives a fair trial.**

# Hill v. Lockhart

#### **United States Supreme Court 474 U.S. 52 (1985)**

#### **Rule of Law**

**A guilty plea will only be deemed involuntary on the basis of ineffective assistance of counsel if the defendant can show actual prejudice.**

# Nix v. Whiteside

#### **United States Supreme Court 475 U.S. 157 (1986)**

#### **Rule of Law**

**While counsel must take all reasonable and lawful means to attain the objectives of the client, counsel may not assist the client in presenting false evidence or otherwise violating the law.**

# Williams v. Taylor

#### **United States Supreme Court 529 U.S. 362 (2000)**

#### **Rule of Law**

**A defendant is entitled to habeas relief pursuant to AEDPA § 2254(d)(1) if a state court’s ruling was contrary to or unreasonably applied clearly established federal law set out by the Supreme Court.**

# Kimmelman v. Morrison

#### **United States Supreme Court 477 U.S. 365 (1986)**

#### **Rule of Law**

**The restriction on federal habeas review of exclusionary rule claims does not extend to ineffective assistance of counsel claims based on the attorney’s failure to utilize the exclusionary rule.**

# Padilla v. Kentucky

#### **United States Supreme Court 559 U.S. 356 (2010)**

#### **Rule of Law**

**The Sixth Amendment’s requirement of effective assistance of counsel requires an attorney to provide accurate advice concerning the potential deportation consequences of a noncitizen defendant’s guilty plea to a crime.**

# \*\*WEAVER v. MASSACHUSETTS\*\*

#### **United States Supreme Court 137 S. Ct. 1899 (2017)**

#### **Rule of Law**

**Ineffective assistance of counsel raised on collateral review is a structural error requiring a new trial only if the defendant shows prejudice or fundamental unfairness.**

# Presley v. Georgia

#### **United States Supreme Court 558 U.S. 209 (2010)**

#### **Rule of Law**

**Courts must find an overriding and compelling interest and consider all reasonable alternatives before excluding the public from trial or pretrial proceedings.**

# Arizona v. Fulminante

#### **United States Supreme Court 499 U.S. 279 (1991)**

#### **Rule of Law**

**The harmless-error doctrine applies to coerced confessions wrongly introduced as evidence at trial.**

# McKaskle v. Wiggins

#### **United States Supreme Court 465 U.S. 168 (1984)**

#### **Rule of Law**

**A pro se defendant’s Sixth Amendment rights are not violated when a judge appoints a standby counsel.**

# Neder v. United States

#### **United States Supreme Court 527 U.S. 1 (1999)**

#### **Rule of Law**

**A jury instruction omitting an element of a crime may constitute harmless error if the element was undisputed and supported by overwhelming evidence.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**March 11, 2021**

**Chapter 17 – Sections 4 & 5 (Skip Section 3)**

**Chapter 13 – Duty To Disclose**

**Tenn. R. Crim. P. Rule 16**

**Johnson v. State, 38 S.W.3d 912 (Tenn. 2001)**

**State v. Ferguson, 2 S.W.3d 912 (Tenn. 1999)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 17 – Sections 4 & 5**

**\*\*MCCOY v. LOUISIANA\*\***

**United States Supreme Court  
138 S. Ct. 1500 (2018)**

**Rule of Law**

**Conceding guilt over a client’s objection violates the right to assistance of counsel and constitutes structural error reversible without showing prejudice.**

# Florida v. Nixon

#### **United States Supreme Court 543 U.S. 175 (2004)**

#### **Rule of Law**

**When a defendant in a capital trial is nonresponsive after being advised of the best strategy for avoiding a death sentence, the attorney’s choice to use that strategy is judged under the ordinary ineffective assistance of counsel standard.**

**Gonzalez v. United States**

**United States Supreme Court  
553 U.S. 242 (2008)**

**Rule of Law**

**A magistrate judge can be assigned the additional duty of presiding over voir dire and jury selection in a felony case with the express consent of counsel alone and without consent of the client.**

# Jones v. Barnes

#### **United States Supreme Court 463 U.S. 745 (1983)**

#### **Rule of Law**

**An attorney assigned to represent a criminal defendant on appeal is under no duty to raise every non-frivolous issue.**

# Godinez v. Moran

#### **United States Supreme Court 509 U.S. 389 (1993)**

#### **Rule of Law**

**The competency to plead guilty or to waive the right to counsel must be measured by the same standard as the competency standard for standing trial.**

# Harris v. New York

#### **United States Supreme Court 401 U.S. 222 (1971)**

#### **Rule of Law**

**Statements made by a suspect who has not received the *Miranda* warnings may be admitted at trial for impeachment purposes.**

# \*\*FARRETTA v. CALIFORNIA\*\*

#### **United States Supreme Court 422 U.S. 806 (1975)**

**Rule of Law**

**The right to defend is personal and defendants have the constitutional right to represent themselves at trial if they so choose.**

# Martinez v. Court of Appeal of California

#### **United States Supreme Court 528 U.S. 152 (2000)**

#### **Rule of Law**

**A state is not obligated to recognize a constitutional right to self-representation on direct appeal from a criminal conviction.**

# Illinois v. Allen

#### **United States Supreme Court 397 U.S. 337 (1970)**

#### **Rule of Law**

**Removing a disruptive defendant from a criminal trial does not violate the Sixth Amendment Confrontation Clause.**

# Indiana v. Edwards

#### **United States Supreme Court 554 U.S. 164 (2008)**

#### **Rule of Law**

**A state court may require a defendant to be represented by a lawyer if he does not have the ability to conduct the trial himself due to severe mental illness, even if the defendant is competent to stand trial under the *Dusky* standard.**

**Chapter 13 – Duty To Disclose**

# \*\*WILLIAMS v. FLORIDA\*\*

#### **United States Supreme Court 399 U.S. 78 (1970)**

**Rule of Law**

**(1) Requiring a criminal defendant to give notice of an alibi defense and disclose his alibi witnesses to the state prior to trial does not violate the Fifth and Fourteenth Amendments.**

**(2) The Sixth Amendment does not require trial by a jury of exactly 12 people.**

# Wardius v. Oregon

#### **United States Supreme Court 412 U.S. 470 (1973)**

#### **Rule of Law**

**Notice-of-alibi rules require reciprocal discovery.**

# Taylor v. Illinois

#### **United States Supreme Court 484 U.S. 400 (1988)**

#### **Rule of Law**

**Where the defendant’s discovery violation is sufficiently serious, the Compulsory Process Clause does not prohibit a trial judge from refusing to allow an undisclosed witness to testify.**

# \*\*UNITED STATES v. BAGLEY\*\*

#### **United States Supreme Court 473 U.S. 667 (1985)**

**Rule of Law**

**Under *Brady*, the prosecution’s failure to turn over favorable evidence only requires a new trial if a reasonable probability exists that the outcome would have been different if the evidence was turned over.**

# Brady v. Maryland

#### **United States Supreme Court 373 U.S. 83 (1963)**

#### **Rule of Law**

**Under the Due Process Clause, the prosecution must turn over evidence favorable to the defense upon request if the evidence is material to either culpability or punishment.**

# Napue v. Illinois

#### **United States Supreme Court 360 U.S. 264 (1959)**

#### **Rule of Law**

**In a criminal trial, the prosecutor may not knowingly use false evidence to obtain the defendant's conviction.**

# Berger v. United States

#### **United States Supreme Court 295 U.S. 78 (1935)**

#### **Rule of Law**

**The cumulative effect of pronounced, persistent prosecutorial misconduct during trial likely prejudices the jury and requires a new trial.**

# Kyles v. Whitley

#### **United States Supreme Court 514 U.S. 419 (1995)**

#### **Rule of Law**

**A defendant is entitled to a new trial under *Brady v. Maryland*, 373 U.S. 83 (1964), if the prosecution withheld multiple pieces of favorable evidence that, taken together, undermine confidence in the verdict.**

# Brecht v. Abrahamson

#### **United States Supreme Court  507 U.S. 619 (1993)**

#### **Rule of Law**

**When deciding whether to grant a defendant habeas corpus relief for a trial error, the correct standard is whether the error had substantial and injurious effect on the verdict in the defendant’s case.**

**\*\*PENNSYLVANIA v. RITCHIE\*\***

**United States Supreme Court  
480 U.S. 39 (1987)**

**Rule of Law**

**The Confrontation Clause of the Sixth Amendment does not compel pretrial discovery.**

# Delaware v. Fensterer

#### **United States Supreme Court 474 U.S. 15 (1985)**

#### **Rule of Law**

**Expert testimony is admissible as evidence even when the expert cannot recall the basis upon which the expert arrived at a particular opinion.**

# Arizona v. Youngblood

#### **United States Supreme Court 488 U.S. 51 (1988)**

#### **Rule of Law**

**The failure of a state to preserve physical evidence that could have been useful to the defendant is not a violation of due process unless bad faith on the part of the police is shown.**

**Johnson v. State, 38 S.W.3d 912 (Tenn. 2001)**

**Johnson v. Tennessee**

**38 S.W.3d 52**

**Supreme Court of Tennessee.**

**Erskine Leroy JOHNSON**

**v.**

**STATE of Tennessee.**

**No. W1997-00024-SC-R11-PD.**

**Jan. 19, 2001.**

**Synopsis**

**Postconviction relief petitioner, who was convicted of felony murder and sentenced to death, filed petition alleging that state improperly withheld discoverable police report. The Criminal Court, Shelby County,**[**William H. Williams Sr**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0202209301&originatingDoc=I861e74a3e7b511d983e7e9deff98dc6f&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I861e74a3e7b511d983e7e9deff98dc6f)**., J., denied relief, and petitioner appealed. The Court of Criminal Appeals,**[**1999 WL 608861,**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1999191540&pubNum=999&originatingDoc=I861e74a3e7b511d983e7e9deff98dc6f&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**reversed and vacated sentence. State appealed. The Supreme Court,**[**Barker**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0151945901&originatingDoc=I861e74a3e7b511d983e7e9deff98dc6f&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I861e74a3e7b511d983e7e9deff98dc6f)**, J., held that: (1) police report withheld by state was favorable information material to issue at sentencing; (2) evidence was insufficient to justify application of aggravating factor; and (3) aggravating factor could not be applied vicariously.**

**Affirmed and remanded for new sentencing hearing.**

**State v. Ferguson, 2 S.W.3d 912 (Tenn. 1999)**

# Tennessee v. Ferguson

**2 S.W.3d 912**

**Supreme Court of Tennessee,**

**at Knoxville.**

**STATE of Tennessee, Appellee,**

**v.**

**Marvin K. FERGUSON, Appellant.**

**Sept. 20, 1999.**

**Synopsis**

**Defendant was convicted in the trial court, Washington County,**[**Lynn W. Brown**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0144335301&originatingDoc=I26b420e6e7bb11d98ac8f235252e36df&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I26b420e6e7bb11d98ac8f235252e36df)**, J., of driving while intoxicated (DWI), second offense. Defendant appealed. The Court of Criminal Appeals affirmed. Appeal was taken.**

**The Supreme Court,**[**Birch**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0259809301&originatingDoc=I26b420e6e7bb11d98ac8f235252e36df&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I26b420e6e7bb11d98ac8f235252e36df)**, J., held that: (1) videotape of defendant's field sobriety tests was material to defendant's defense and might have led jury to entertain reasonable doubt as to his guilt by shedding light on his appearance and condition, and thus state had a duty to preserve videotape as potentially exculpatory evidence, under due process clause of State Constitution, but (2) state's breach of its duty to preserve videotape did not hinder full and complete exposition of defendant's theory that effects of his medical condition made it appear as if he were intoxicated, and thus, defendant received a fundamentally fair trial.**

**Affirmed.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**March 18, 2021**

**Chapter 14 – Guilty Pleas**

**Tenn. R. Crim. P. Rule 11**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 14 – Guilty Pleas**

**\*\*BORDENKIRCHER v. HAYES\*\***

**United States Supreme Court  
434 U.S. 357 (1978)**

**Rule of Law**

**The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution is not violated when a prosecutor exercises discretion in whether or not to prosecute and what charge to bring before a grand jury so long as the decision is not intentionally based on race, religion, or some other unjustifiable classification.**

**Blackledge v. Perry**

**United States Supreme Court  
417 U.S. 21 (1974)**

**Rule of Law**

**The Due Process Clause of the Fourteenth Amendment is violated if an increased punishment after appeal has a real likelihood of being the result of vindictiveness.**

**Brady v. United States**

**United States Supreme Court  
397 U.S. 742 (1970)**

**Rule of Law**

**A defendant’s guilty plea is not invalid under the Fifth Amendment if it is voluntary, knowing, and intelligent and done to avoid the risk of a harsher penalty.**

# \*\*SANTOBELLO v. NEW YORK\*\*

#### **United States Supreme Court 404 U.S. 257 (1971)**

#### **Rule of Law**

**When a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled.**

# \*\*MISSOURI v. FRYE\*\*

#### **United States Supreme Court 132 S.Ct. 1399 (2012)**

#### **Rule of Law**

**The Sixth Amendment requires defense counsel to communicate to a defendant formal plea offers from the prosecution.**

# Premo v. Moore

#### **United States Supreme Court 569 U.S. \_\_\_ (2011)**

#### **Rule of Law**

**Habeas relief for a claim of ineffective assistance of counsel is inappropriate if there is any reasonable argument that the counsel's assistance was effective or that the defendant was not prejudiced by counsel's ineffective assistance.**

# \*\*UNITED STATES v. RUIZ\*\*

#### **United States Supreme Court 536 U.S. 622 (2002)**

#### **Rule of Law**

**Federal prosecutors are not constitutionally obligated to disclose impeachment information relating to any informants or other witnesses before entering into a binding plea agreement with a criminal defendant.**

# Giglio v. United States

#### **United States Supreme Court 405 U.S. 150 (1972)**

#### **Rule of Law**

**Under *Brady*, evidence that might impeach the prosecution’s witness is material exculpatory evidence that must be turned over to the defense.**

# United States v. Broce

#### **United States Supreme Court 488 U.S. 563 (1989)**

#### **Rule of Law**

**When a defendant enters a valid guilty plea to charges, he relinquishes his right to later raise defenses against those charges even if he was not aware of the defense at the time he pled guilty.**

# Ake v. Oklahoma

#### **United States Supreme Court 470 U.S. 68 (1985)**

#### **Rule of Law**

**When the sanity of a defendant is likely to be at issue in criminal proceedings, the Constitution requires the state to provide the services of a psychiatrist.**

# \*\*BOYKIN v. ALABAMA\*\*

#### **United States Supreme Court 395 U.S. 238 (1969)**

#### **Rule of Law**

**A guilty plea is only constitutionally valid if it is apparent from the record that the plea was knowing and voluntary.**

# \*\*HENDERSON v. MORGAN\*\*

#### **United States Supreme Court 426 U.S. 637 (1976)**

#### **Rule of Law**

**Under the Due Process Clause, a guilty plea is not knowing and voluntary if the defendant is not advised of an important element of the offense.**

# \*\*NORTH CAROLINA v. ALFORD\*\*

#### **United States Supreme Court 400 U.S. 25 (1970)**

#### **Rule of Law**

**A criminal defendant can voluntarily, knowingly and understandingly consent to the imposition of a prison sentence, even if he testifies that he did not in fact commit the crime, if he intelligently concludes that a guilty plea is in his best interest and the record contains strong evidence of actual guilt.**

# Hudson v. United States

#### **United States Supreme Court 522 U.S. 93 (1997)**

#### **Rule of Law**

**The Double Jeopardy Clause does not necessarily prohibit criminal prosecution in cases where the defendant has been subject to prior statutory sanctions for the same incident.**

# \*\*CLASS v. UNITED STATES\*\*

#### **United States Supreme Court 138 S. Ct. 798 (2018)**

#### **Rule of Law**

**Pleading guilty does not waive a claim that the statute of conviction is unconstitutional.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**March 25, 2021**

**Chapter 10 – The Decision Whether to Prosecute**

**Chapter 11 – Screening the Prosecutor’s Charging Decision**

**Chapter 12 – Speedy Trial and Other Speedy Dispositions**

**State v. Gray, 917 S.W.2d 668 (Tenn. 1996)**

**Statute of Limitations – TCA §§ 40-2-101 through 106**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 10 – The Decision Whether to Prosecute**

**\*\*UNITED STATES v. ARMSTRONG\*\***

**United States Supreme Court  
517 U.S. 456 (1996)**

#### **Rule of Law**

**A federal criminal defendant making a selective-prosecution claim must demonstrate that the Government’s prosecutorial policy was motivated by a discriminatory purpose and that similarly situated individuals of different races were not prosecuted.**

# Yick Wo v. Hopkins

#### **United States Supreme Court 118 U.S. 356 (1886)**

#### **Rule of Law**

**A facially neutral law that is applied in a discriminatory manner on the basis of race or nationality violates the Equal Protection Clause of the Fourteenth Amendment.**

# Wayte v. United States

#### **United States Supreme Court 470 U.S. 598 (1985)**

#### **Rule of Law**

**A prosecution will only be dismissed as an unconstitutional selective prosecution if the defendant can show (1) a discriminatory effect and (2) a discriminatory purpose.**

# \*\*UNITED STATES v. BATCHELDER\*\*

#### **United States Supreme Court  442 U.S. 114 (1979)**

#### **Rule of Law**

**A court must use the sentencing provisions of the statute that a defendant is convicted of violating, even where its maximum penalty is higher than that of an overlapping statute that bars the same conduct.**

# \*\*UNITED STATES v. GOODWIN\*\*

#### **United States Supreme Court 457 U.S. 368 (1982)**

#### **Rule of Law**

**A presumption of vindictiveness does not arise from the addition of new charges after a defendant demands a jury trial.**

**Chapter 11 – Screening the Prosecutor’s Charging Decision**

# \*\*COLEMAN v. ALABAMA\*\*

#### **United States Supreme Court 399 U.S. 1 (1970)**

#### **Rule of Law**

**A defendant has the right to counsel during any pre-trial confrontation where there is the potential for substantial prejudice to his right to a fair trial as affected by his right to meaningfully cross-examine a witness and have effective assistance of counsel at the trial.**

# Pointer v. Texas

#### **United States Supreme Court 380 U.S. 400 (1965)**

#### **Rule of Law**

**A defendant's Sixth Amendment guarantee of the right to confront witnesses applies to the states.**

# \*\*VASQUEZ v. HILLERY\*\*

#### **United States Supreme Court 474 U.S. 254 (1986)**

#### **Rule of Law**

**The mandatory remedy for racial discrimination in grand jury selection is reversal of any subsequent criminal conviction.**

# Strauder v. West Virginia

#### **United States Supreme Court 100 U.S. 303 (1880)**

#### **Rule of Law**

**The Fourteenth Amendment prohibits states from enacting laws that deny any of its citizens equal protection under the law.**

# \*\*COSTELLO v. UNITED STATES\*\*

#### **United States Supreme Court 350 U.S. 359 (1956)**

#### **Rule of Law**

**Under the Fifth Amendment, a grand jury indictment will not be dismissed because it is based solely on hearsay evidence.**

# United States v. Calandra

#### **United States Supreme Court 414 U.S. 338 (1974)**

#### **Rule of Law**

**A witness subpoenaed to testify before a grand jury may not invoke the exclusionary rule as grounds for refusal to answer questions relating to illegally obtained evidence.**

# United States v. Williams

#### **United States Supreme Court 504 U.S. 36 (1992)**

#### **Rule of Law**

**Courts have a supervisory power that allows them to control their own procedures but not those of the grand jury.**

**Chapter 12 – Speedy Trial and Other Speedy Dispositions**

# \*\*BARKER v. WINGO\*\*

#### **United States Supreme Court 407 U.S. 514 (1972)**

#### **Rule of Law**

**Whether a defendant’s right to a speedy trial has been violated requires applying a balancing test in which the conduct of the prosecution and the conduct of the defendant are weighed and the court considers (1) the length of the delay, (2) the government’s reason for the delay, (3) whether and how the defendant asserted his right to a speedy trial, and (4) whether the defendant was prejudiced by the delay.**

# Vermont v. Brillon

#### **United States Supreme Court 556 U.S. 81 (2009)**

#### **Rule of Law**

**Delays caused by assigned defense counsel are properly attributed to the defendant.**

# \*\*DOGGETT v. UNITED STATES\*\*

#### **United States Supreme Court 505 U.S. 647 (1992)**

#### **Rule of Law**

**An eight and one-half years delay between indictment and arrest due to the government’s negligence violates the Sixth Amendment right to a speedy trial.**

# United States v. Marion

#### **United States Supreme Court 404 U.S. 307 (1971)**

#### **Rule of Law**

**The Sixth Amendment right to a speedy trial is not activated until arrest or indictment, and a pre-indictment delay is only cause for dismissal if it violates the statute of limitations or due process.**

# \*\*UNITED STATES v. LOVASCO\*\*

#### **United States Supreme Court 431 U.S. 783 (1977)**

#### **Rule of Law**

**An investigative delay does not violate the Due Process Clause, even if it resulted in prejudice to the defendant.**

# Betterman v. Montana

#### **United States Supreme Court 136 S. Ct. 1609 (2016)**

#### **Rule of Law**

**The Sixth Amendment’s Speedy Trial Clause does not apply to sentencing proceedings.**

**State v. Gray, 917 S.W.2d 668 (Tenn. 1996)**

**State v. Gray (Westlaw)**

**917 S.W.2d 668**

**Supreme Court of Tennessee,**

**at Nashville.**

**STATE of Tennessee, Appellee,**

**v.**

**Harold Winter GRAY, Appellant.**

**Feb. 26, 1996.**

**Synopsis**

**Defendant was indicted for carnal knowledge of female under age of twelve. The Wilson County Court,**[**James O. Bond**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0209589701&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Ib6ec7c0ce7c711d98ac8f235252e36df)**, J., dismissed indictment, and state appealed. The Court of Criminal Appeals, [](https://1.next.westlaw.com/Link/RelatedInformation/Flag?documentGuid=I64718f0feb3811d9bf60c1d57ebc853e&transitionType=InlineKeyCiteFlags&originationContext=docHeaderFlag&DocSource=33d8d6baece847fbaba52a7ef6119ff8&Rank=1&RuleBookModeDisplay=False&contextData=(sc.Search))**[**1994 WL 405335,**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1994163197&pubNum=999&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**reversed, and defendant applied for further review. The Supreme Court,**[**Birch**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0259809301&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Ib6ec7c0ce7c711d98ac8f235252e36df)**, J., held that prosecution of defendant for incident that occurred 42 years prior to indictment violated due process.**

**Judgment of Court of Criminal Appeals reversed; judgment of trial court reinstated.**

**Appeal from County Court, Wilson County; Hon.**[**James O. Bond**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0209589701&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Ib6ec7c0ce7c711d98ac8f235252e36df)**, Judge.**

**West Headnotes:**

**Indictments and Charging Instruments**

**Delay between commission of offense and commencement of adversarial proceedings does not violate defendant's constitutional right to speedy trial.**[**U.S.C.A. Const.Amend. 6**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDVI&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Constitutional Law**

**Untimely prosecution may be subject to dismissal upon due process grounds even though in the interim defendant was neither formally accused, restrained, nor incarcerated for offense; in determining whether preaccusatorial delay violates due process, trial court must consider length of delay, reason for delay, and degree of prejudice, if any, to accused.**[**U.S.C.A. Const.Amends. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDV&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**,**[**14**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDXIV&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Tenn. Const. Art. 1, §§ 8**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000305&cite=TNCNART1S8&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**,**[**9**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000305&cite=TNCNART1S9&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Constitutional Law**

**Indictments and Charging Instruments**

**Prosecution of defendant for carnal knowledge of female under twelve years of age for incident that allegedly occurred 42 years prior to indictment would violate due process; there was no evidence that defendant tried to conceal his alleged conduct or threatened victim in any way, victim continue to interact with defendant through the years, lapse of time had diminished victim's memory, witnesses thought to be material were unavailable, and victim could not specifically date incident, thereby requiring defendant to account for his whereabouts and his conduct during six-month period 42 years past.**[**U.S.C.A. Const.Amends. 5**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDV&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**,**[**14**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000583&cite=USCOAMENDXIV&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**;**[**Tenn. Const. Art. 1, § 8**](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000305&cite=TNCNART1S8&originatingDoc=Ib6ec7c0ce7c711d98ac8f235252e36df&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**April 1, 2021**

**Chapter 15 – Trial by Jury**

**Tenn. R. Crim. Proc. Rules 23 - 31**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 15 – Trial by Jury**

**\*\*BLANTON v. CITY of NORTH LAS VEGAS\*\***

**United States Supreme Court  
489 U.S. 538 (1989)**

**Rule of Law**

**In general, jury trial rights do not apply for petty offenses with a maximum penalty of six months of imprisonment or less.**

# Duncan v. Louisiana

#### **United States Supreme Court 391 U.S. 145 (1968)**

#### **Rule of Law**

**The Sixth Amendment right to a jury trial applies to state court proceedings through the Fourteenth Amendment.**

***Duncan v. Louisiana* was an important step in incorporating the Bill or Rights against the states.**

# Baldwin v. New York

#### **United States Supreme Court 399 U.S. 66 (1970)**

#### **Rule of Law**

**The Sixth Amendment guarantees a defendant the right to a trial by jury for all “serious” offenses that require imprisonment for more than six months.**

# Lewis v. United States

#### **United States Supreme Court 518 U.S. 322 (1996)**

#### **Rule of Law**

**The Sixth Amendment does not entitle a criminal defendant to a jury trial on petty offenses, even when conviction on multiple petty offenses could result in a sentence greater than six months in prison.**

**\*\*RAMOS v. LOUISIANA\*\***

**140 S.Ct. 1390**

**Supreme Court of the United States.**

**Evangelisto RAMOS, Petitioner**

**v.**

**LOUISIANA**

**No. 18-5924**

**Argued October 7, 2019Decided April 20, 2020**

**Synopsis**

**Background: Defendant was convicted in the Louisiana Criminal District Court, Orleans Parish, No. 524–912, Section “F”,**[**Robin D. Pittman**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0385090501&originatingDoc=I94778a42828311eaa154dedcbee99b91&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I94778a42828311eaa154dedcbee99b91)**, J., of second-degree murder based on 10-to-2 jury verdict in favor of conviction, and was sentenced to life in prison without possibility of parole. Defendant appealed. The Louisiana Court of Appeal,**[**James F. McKay III**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0168993001&originatingDoc=I94778a42828311eaa154dedcbee99b91&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I94778a42828311eaa154dedcbee99b91)**, C.J., [](https://1.next.westlaw.com/Link/RelatedInformation/Flag?documentGuid=I5dca0a00c02e11e79c8f8bb0457c507d&transitionType=InlineKeyCiteFlags&originationContext=docHeaderFlag&DocSource=25da7bb89777484e8d8babb15c71f3df&Rank=1&RuleBookModeDisplay=False&contextData=(sc.Search))**[**231 So.3d 44**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=2043062969&pubNum=0003926&originatingDoc=I94778a42828311eaa154dedcbee99b91&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**, affirmed. Certiorari was granted.**

[**Holding:**](https://1.next.westlaw.com/Document/I94778a42828311eaa154dedcbee99b91/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62aef00000178292fbe7274a3430d%3Fppcid%3Dba6140c24e804e3f83752fb0cca1568c%26Nav%3DCASE%26fragmentIdentifier%3DI94778a42828311eaa154dedcbee99b91%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=5d1c33db2f3128d3d6894e67e1640e6e&list=CASE&rank=1&sessionScopeId=15282738797cd339e9ec50015d6657e8e8416f59ed9152ab3942c3c85b5fd114&ppcid=ba6140c24e804e3f83752fb0cca1568c&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29#co_anchor_F32050796536)**The Supreme Court, Justice**[**Gorsuch**](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0183411701&originatingDoc=I94778a42828311eaa154dedcbee99b91&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=I94778a42828311eaa154dedcbee99b91)**, held that the Sixth Amendment right to jury trial, as incorporated against the States by way of the Fourteenth Amendment, requires a unanimous verdict to convict a defendant of a serious offense, abrogating [](https://1.next.westlaw.com/Link/RelatedInformation/Flag?documentGuid=Ic83821719be811d991d0cc6b54f12d4d&transitionType=InlineKeyCiteFlags&originationContext=docHeaderFlag&DocSource=25da7bb89777484e8d8babb15c71f3df&Rank=1&RuleBookModeDisplay=False&contextData=(sc.Search))**[***Apodaca v. Oregon*, 406 U.S. 404, 92 S.Ct. 1628, 32 L.Ed.2d 184**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1972127122&pubNum=0000708&originatingDoc=I94778a42828311eaa154dedcbee99b91&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**, and [](https://1.next.westlaw.com/Link/RelatedInformation/Flag?documentGuid=I8bb1f6ed9bf111d993e6d35cc61aab4a&transitionType=InlineKeyCiteFlags&originationContext=docHeaderFlag&DocSource=25da7bb89777484e8d8babb15c71f3df&Rank=1&RuleBookModeDisplay=False&contextData=(sc.Search))**[***Johnson v. Louisiana*, 406 U.S. 356, 92 S.Ct. 1620, 32 L.Ed.2d 152**](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1972127121&pubNum=0000708&originatingDoc=I94778a42828311eaa154dedcbee99b91&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search))**.**

**Reversed.**

# Apodaca v. Oregon

#### **United States Supreme Court 406 U.S. 404 (1972)**

#### **Rule of Law**

**A nonunanimous jury verdict in a criminal trial does not violate the Sixth Amendment right to trial by jury, at least with respect to votes of 10–2 or more.**

# Johnson v. Louisiana

#### **United States Supreme Court 406 U.S. 356 (1972)**

#### **Rule of Law**

**A state law that authorizes conviction for a crime on a guilty verdict issued by nine out of twelve jurors does not violate the defendant’s constitutional due process rights.**

# Timbs v. Indiana

#### **United States Supreme Court 139 S. Ct. 682 (2019)**

#### **Rule of Law**

**The Fourteenth Amendment’s Due Process Clause incorporates to the states those constitutional protections fundamental to ordered liberty and deeply rooted in history and tradition.**

# United States v. Booker

#### **United States Supreme Court 543 U.S. 220 (2005)**

#### **Rule of Law**

**(1) The enhancement of a sentence under the Federal Sentencing Guidelines based on judicial findings of fact by a preponderance of the evidence violates the Sixth Amendment.  
(2) The United States Sentencing Guidelines are not mandatory.**

# Crawford v. Washington

#### **United States Supreme Court 541 U.S. 36 (2004)**

#### **Rule of Law**

**Testimonial statements of witnesses not present at trial are admissible only where the declarant is unavailable and the defendant had a prior opportunity for cross examination.**

# Teague v. Lane

#### **United States Supreme Court 489 U.S. 288 (1989)**

#### **Rule of Law**

**Generally, the law prevailing at the time of a criminal defendant's conviction will apply on collateral review, but a new constitutional rule of criminal procedure can be applied retroactively only if (1) the new rule gives constitutional protection to a primary, private individual action or (2) the new rule is necessary to the fundamental fairness of the criminal justice system**

# Peña-Rodriguez v. Colorado

#### **United States Supreme Court 137 S. Ct. 855 (2017)**

#### **Rule of Law**

**If a juror makes a clear statement showing reliance on racial bias or animus to convict a defendant, an exception to the no-impeachment rule allows jurors to testify about jury deliberations to determine whether racial bias deprived the defendant of an impartial jury.**

# \*\*SINGER v. UNITED STATES\*\*

#### **United States Supreme Court 380 U.S. 24 (1965)**

#### **Rule of Law**

**A criminal defendant does not have a constitutional right to waive the right to a jury trial in favor of a bench trial.**

# \*\*TAYLOR v. LOUISIANA\*\*

#### **United States Supreme Court 419 U.S. 522 (1975)**

#### **Rule of Law**

**The Sixth and Fourteenth Amendments demand that venires, panels and lists from which petit juries are drawn represent a fair cross section of the community.**

# United States v. Ballard

#### **United States Supreme Court 322 U.S. 78 (1944)**

#### **Rule of Law**

**Under the First Amendment, the judiciary may only inquire into whether a person sincerely holds religious beliefs, not whether those beliefs are factual.**

# \*\*TURNER v. MURRAY\*\*

#### **United States Supreme Court 476 U.S. 28 (1986)**

#### **Rule of Law**

**A capital defendant charged with an interracial crime is entitled to have potential jurors informed of the victim’s race and asked about racial bias during *voir dire*.**

# Ristaino v. Ross

#### **United States Supreme Court 424 U.S. 589 (1976)**

#### **Rule of Law**

**Constitutional due process does not require that prospective jurors in a case be questioned concerning their possible racial prejudice.**

# Ham v. South Carolina

#### **United States Supreme Court 409 U.S. 524 (1973)**

#### **Rule of Law**

**When the defendant makes a timely request, a judge must interrogate potential jurors about any racial prejudice they may harbor.**

# \*\*LOCKHART v. MCCREE\*\*

#### **United States Supreme Court 476 U.S. 162 (1986)**

#### **Rule of Law**

**The Constitution does not prohibit removing for cause prospective jurors whose opposition to the death penalty is so strong that it would prevent or substantially impair the performance of their duties as jurors at the sentencing phase of the trial.**

# Witherspoon v. Illinois

#### **United States Supreme Court 391 U.S. 510 (1968)**

#### **Rule of Law**

**Courts may not exclude jurors solely because of conscientious objections to the death penalty.**

# \*\*BATSON v. KENTUCKY\*\*

#### **United States Supreme Court 476 U.S. 79 (1986)**

#### **Rule of Law**

**The Equal Protection Clause of the Fourteenth Amendment prohibits prosecutors from using peremptory challenges to remove prospective jurors based on their race.**

**Post- Baton Developments:**

# Flowers v. Mississippi

#### **United States Supreme Court 139 S. Ct. 2228 (2019)**

#### **Rule of Law**

**Racially discriminatory peremptory strikes are unconstitutional.**

# Snyder v. Louisiana

#### **United States Supreme Court 552 U.S. 472 (2008)**

#### **Rule of Law**

**A peremptory strike based on race requires reversal of a conviction.**

# Miller-El v. Dretke

#### **United States Supreme Court  545 U.S. 231 (2005)**

#### **Rule of Law**

**Even where a prosecutor accused of dismissing jurors based on race provides a race-neutral reason for his peremptory strikes, the court must grant a defendant relief where the evidence shows that the race-neutral reasons are pretextual.**

# Hernandez v. New York

#### **United States Supreme Court 500 U.S. 352 (1991)**

#### **Rule of Law**

**A prosecutor’s use of peremptory challenges in a manner that disproportionately impacts potential jurors of a particular race does not violate the Fourteenth Amendment’s Equal Protection Clause if the prosecution can offer a sufficient race-neutral explanation for the challenges.**

# J.E.B. v. Alabama ex rel. T.B.

#### **United States Supreme Court 511 U.S. 127 (1994)**

#### **Rule of Law**

**The Equal Protection Clause of the Fourteenth Amendment prohibits peremptory challenges based on gender.**

# Edmonson v. Leesville Concrete Co.

#### **United States Supreme Court 500 U.S. 614 (1991)**

#### **Rule of Law**

**A private litigant in a civil case may not use peremptory challenges to exclude jurors on account of their race because the exercise or peremptory challenges invokes state action.**

# \*\*PEÑA-RODRIGUEZ v. COLORADO\*\*

#### **United States Supreme Court 137 S. Ct. 855 (2017)**

#### **Rule of Law**

**If a juror makes a clear statement showing reliance on racial bias or animus to convict a defendant, an exception to the no-impeachment rule allows jurors to testify about jury deliberations to determine whether racial bias deprived the defendant of an impartial jury.**

# Tanner v. United States

#### **United States Supreme Court 483 U.S. 107 (1987)**

#### **Rule of Law**

**A juror may not testify about evidence of jurors’ alcohol and drug use during a trial.**

# Warger v. Shauers

#### **United States Supreme Court 574 U.S. \_\_\_ (2014)**

#### **Rule of Law**

**Under Federal Rule of Evidence 606(b), evidence of juror deliberations is only admissible to prove an outside influence, extraneous information, or mistake.**

# McLaughlin v. Florida

#### **United States Supreme Court 379 U.S. 184 (1964)**

#### **Rule of Law**

**A statute prohibiting cohabitation between unmarried people of different races unconstitutionally violates the Equal Protection Clause.**

# \*\*WILLIAMS v. PENNSYLVANIA\*\*

#### **United States Supreme Court 136 S. Ct. 1899 (2016)**

#### **Rule of Law**

**Where a judge has had an earlier significant, personal involvement as a prosecutor in a critical decision in a defendant’s case, the risk of bias is so high that the judge must be recused.**

# Caperton v. A.T. Massey Coal Co., Inc.

#### **United States Supreme Court 556 US 868 (2009)**

#### **Rule of Law**

**A judge is biased and should recuse himself when a contributor’s influence on his election is so substantial that it would offer a possible temptation to the average judge to lead him not to be impartial.**

# Withrow v. Larkin

#### **United States Supreme Court 421 U.S. 35 (1975)**

#### **Rule of Law**

**One of the requirements of due process is a neutral decisionmaker.**

# Aetna Life Insurance Company v. Lavoie

#### **United States Supreme Court 475 U.S. 813 (1986)**

#### **Rule of Law**

**Under the Due Process Clause, a judge must recuse himself from a case if he has a direct, personal, substantial, and pecuniary interest in the outcome.**

# Herrera v. Collins

#### **United States Supreme Court 506 U.S. 390 (1993)**

#### **Rule of Law**

**Federal habeas corpus relief for claims of actual innocence is unavailable if there was no constitutional violation in state criminal proceedings.**

# District Attorney’s Office v. Osborne

#### **United States Supreme Court 557 U.S. 52 (2009)**

#### **Rule of Law**

**The Due Process Clause of the Fourteenth Amendment does not provide a constitutional right to postconviction DNA testing.**

***District Attorney’s Office v. Osborne* reflects the differing perspectives that have often divided the Court in its determination of the independent content of due process.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**April 8, 2021**

**Chapter 18 – The Trial**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 18 – The Trial**

**\*\*ILLINOIS v. ALLEN\*\***

**United States Supreme Court  
397 U.S. 337 (1970)**

**Rule of Law**

**Removing a disruptive defendant from a criminal trial does not violate the Sixth Amendment Confrontation Clause.**

**Deck v. Missouri**

**United States Supreme Court  
544 U.S. 622 (2005)**

**Rule of Law**

**The use of visible shackles during the penalty phase of a capital trial violates due process.**

**\*\*MICHIGAN v. BRYANT\*\***

**United States Supreme Court  
562 U.S. 344 (2011)**

**Rule of Law**

**Statements made to assist police in addressing an ongoing emergency are not testimonial for Confrontation purposes because they are not made for the primary purpose of creating a record for trial.**

# Davis v. Washington

#### **United States Supreme Court 547 U.S. 813 (2006)**

#### **Rule of Law**

**Statements made to law enforcement personnel are nontestimonial and not subject to the Confrontation Clause under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency.**

# Ohio v. Roberts

#### **United States Supreme Court 448 U.S. 56 (1980)**

#### **Rule of Law**

**To be admissible hearsay under the Confrontation Clause, the declarant must be unavailable and the statement must have adequate “indicia of reliability.”**

# Ohio v. Clark

#### **United States Supreme Court 576 U.S. 1 (2015)**

#### **Rule of Law**

**Out-of-court statements made to persons other than law-enforcement officers are not excluded from admission into evidence by the Confrontation Clause.**

# \*\*RICHARDSON v. MARSH\*\*

#### **United States Supreme Court 481 U.S. 200 (1987)**

#### **Rule of Law**

**It is not a violation of the Confrontation Clause to admit a defendant’s confession implicating a co-defendant if the confession has been redacted to omit any mention of the co-defendant and the jury has been instructed not to use the confession against the co-defendant.**

# Bruton v. United States

#### **United States Supreme Court 391 U.S. 123 (1968)**

#### **Rule of Law**

**The admission of a defendant’s confession incriminating a co-defendant violates the Sixth Amendment Confrontation Clause.**

# Melendez-Diaz v. Massachusetts

#### **United States Supreme Court 557 US 305 (2009)**

#### **Rule of Law**

**In a criminal case, laboratory reports prepared by government analysts are inadmissible against the defendant because such reports constitute testimonial evidence under the Confrontation Clause.**

# Gray v. Maryland

#### **United States Supreme Court 523 U.S. 185 (1998)**

#### **Rule of Law**

**Out-of-court statements made by a codefendant that incriminate another defendant are inadmissible at trial even with a limiting instruction or if the name of the defendant is redacted.**

# \*\*DAVIS v. ALASKA\*\*

#### **United States Supreme Court 415 U.S. 308 (1974)**

#### **Rule of Law**

**A defendant’s Sixth Amendment right to impeach a witness through cross-examination outweighs a state’s interest in maintaining the confidentiality of the witness’s juvenile record.**

# Greene v. McElroy

#### **United States Supreme Court 360 U.S. 474 (1959)**

#### **Rule of Law**

**Congressional or executive acquiescence or implied ratification is not enough to show an effective delegation of authority to take actions that are potentially contradictory to long-accepted constitutional requirements.**

# \*\*GRIFFIN v. CALIFORNIA\*\*

#### **United States Supreme Court 380 U.S. 609 (1965)**

#### **Rule of Law**

**It is a violation of the Fifth Amendment for the prosecution to comment on the defendant’s silence or for the trial judge to instruct the jury that the defendant’s silence can be evidence of guilt.**

# United States v. Robinson

#### **United States Court of Appeals for the First Circuit 843 F.2d 1 (1988)**

#### **Rule of Law**

**Two nations may informally agree to enforce one nation’s laws on a ship of the other nation.**

# Carter v. Kentucky

#### **United States Supreme Court 450 U.S. 288 (1981)**

#### **Rule of Law**

**A trial court judge has a constitutional obligation to instruct the jury that it may draw no adverse inference from a defendant’s decision not to testify when the defendant requests such an instruction.**

# Portuondo v. Agard

#### **United States Supreme Court 529 U.S. 61 (2000)**

#### **Rule of Law**

**A criminal defendant’s constitutional rights are not violated by a prosecutorial comment to the jury indicating that the defendant may have gained an advantage by choosing to testify last during trial.**

# Rock v. Arkansas

#### **United States Supreme Court 483 U.S. 44 (1987)**

#### **Rule of Law**

**A rule prohibiting the admission of hypnotically refreshed testimony violates a criminal defendant’s constitutional right to testify on her own behalf.**

# Chambers v. Mississippi

#### **United States Supreme Court 410 U.S. 284 (1973)**

#### **Rule of Law**

**A criminal defendant’s due process rights are violated when the trial court prohibits the defendant from cross-examining his own witness and excludes hearsay testimony of statements against the witness’ penal interests when assurances of reliability warrant an exception from the hearsay rule.**

# \*\*HOLMES v. SOUTH CAROLINA\*\*

#### **United States Supreme Court 547 U.S. 319 (2006)**

#### **Rule of Law**

**In order to have a “meaningful opportunity to present a complete defense,” the defendant must be entitled to introduce evidence of a third party’s guilt.**

# United States v. Scheffer

#### **United States Supreme Court 523 U.S. 303 (1998)**

#### **Rule of Law**

**The Sixth Amendment right to present a defense is not unlimited, but rather is subject to reasonable restrictions.**

# Washington v. Texas

#### **United States Supreme Court 388 U.S. 14 (1967)**

#### **Rule of Law**

**A state law that prohibits persons charged or convicted as coparticipants in a crime from testifying on behalf of one another violates the Sixth Amendment right to compulsory process.**

# \*\*TAYLOR v. KENTUCKY\*\*

#### **United States Supreme Court 436 U.S. 478 (1978)**

#### **Rule of Law**

**A trial court’s refusal to provide a jury instruction on the presumption of innocence violates a defendant’s due process rights.**

# Henderson v. Kibbe

#### **United States Supreme Court 431 U.S. 145 (1977)**

#### **Rule of Law**

**The definition of recklessness includes a causation element.**

# \*\*DARDEN v. WAINWRIGHT\*\*

#### **United States Supreme Court  477 U.S. 168 (1986)**

#### **Rule of Law**

**A court is not required to reverse a defendant’s conviction when the prosecution has made improper comments during closing arguments if the comments do not misstate evidence or facts and the defense is given a chance to rebut.**

# United States v. Young

#### **United States Supreme Court 470 U.S. 1 (1985)**

#### **Rule of Law**

**Inappropriate statements by the prosecution do not rise to the level of reversible plain error when they are invited by the statements of defense counsel and do no more than offset the prejudicial influence of the statements of defense counsel.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**April 15, 2021**

**Chapter 20 – Sentencing Procedures**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Chapter 20 – Sentencing Procedures**

**\*\*UNITED STATES v. GRAYSON\*\***

**United States Supreme Court  
438 U.S. 41 (1978)**

**Rule of Law**

**It is permissible for a sentencing judge to enhance a convicted defendant’s sentence on the basis of the judge’s belief that the defendant committed perjury in his trial testimony.**

# Williams v. New York

#### **United States Supreme Court 337 U.S. 241 (1949)**

#### **Rule of Law**

**The Due Process Clause of the Fourteenth Amendment does not prohibit sentencing judges from acquiring information about the defendant from out-of-court sources even though the defendant does not have the opportunity to confront or cross-examine the sources.**

# United States v. Tucker

#### **United States Supreme Court 404 U.S. 443 (1972)**

#### **Rule of Law**

**When prior convictions factor into a sentencing determination and the prior convictions are later ruled constitutionally invalid, the appropriate remedy is a new sentencing hearing.**

# Scott v. United States

#### **United States Court of Appeals for the District of Columbia Circuit) 419 F.2d 264 (1969)**

#### **Rule of Law**

**A judge may not impose a harsher sentence upon a convicted defendant merely because the defendant pleaded not guilty and contested the charges at trial.**

# \*\*MITCHELL v. UNITED STATES\*\*

#### **United States Supreme Court 526 U.S. 314 (1999)**

#### **Rule of Law**

**A defendant who pleads guilty does not waive the Fifth Amendment right against self-incrimination at the sentencing hearing.**

# White v. Woodall

#### **United States Supreme Court 134 S. Ct. 1697 (2014)**

#### **Rule of Law**

**To obtain habeas corpus from a federal court, a state prisoner must show that the state-court’s ruling on the claim was an objectively unreasonable application of clearly established federal law.**

# McMillan v. Pennsylvania

#### **United States Supreme Court 477 U.S. 79 (1986)**

#### **Rule of Law**

**The Due Process Clause of the Fourteenth Amendment is not violated where a state statute subjects a convicted defendant to a mandatory minimum sentence, not exceeding that otherwise permitted without the act, if the sentencing judge finds, by a preponderance of the evidence, that a certain fact existed at the time of the crime.**

# Roberts v. United States

#### **United States Supreme Court 445 U.S. 552 (1980)**

#### **Rule of Law**

**It is not error for a judge to consider a defendant’s refusal to cooperate with the government in a sentencing determination when the defendant has not invoked the Fifth Amendment privilege against self-incrimination.**

# Blakely v. Washington

#### **United States Supreme Court 542 U.S. 296 (2004)**

#### **Rule of Law**

**Any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury and proved beyond a reasonable doubt.**

# Apprendi v. New Jersey

#### **United States Supreme Court 530 U.S. 466 (2000)**

#### **Rule of Law**

**Any fact, other than a prior conviction, that increases the maximum penalty for a crime must be submitted to a jury and proven beyond a reasonable doubt by the prosecution.**

# Ring v. Arizona

#### **United States Supreme Court 536 U.S. 584 (2002)**

#### **Rule of Law**

**A jury must determine the existence of any aggravating factor that could increase the severity of a criminal defendant's sentence.**

# Alleyne v. United States

#### **United States Supreme Court 570 U.S. 99 (2013)**

#### **Rule of Law**

**Under the Sixth Amendment, any fact that increases the mandatory minimum sentence of a crime is an element of the crime that must be submitted to the jury and proven beyond a reasonable doubt.**

# Mistretta v. United States

#### **United States Supreme Court 488 U.S. 361 (1989)**

#### **Rule of Law**

**Congress may delegate authority to set sentencing guidelines to a judicial commission, provided that it gives an intelligible principle to guide the commission and does not aggrandize the judicial branch at the expense of another branch.**

# \*\*MCCLESKY v. KEMP\*\*

#### **United States Supreme Court 481 U.S. 279 (1987)**

#### **Rule of Law**

**A criminal defendant alleging an equal protection violation must prove the existence of a discriminatory purpose and a racially disproportionate and discriminatory effect.**

# Rita v. United States

#### **United States Supreme Court 551 U.S. 338 (2007)**

#### **Rule of Law**

**A court of appeals may apply a presumption of reasonableness to a district court sentence that reflects a proper application of the Federal Sentencing Guidelines.**

# Loving v. Virginia

#### **United States Supreme Court 388 U.S. 1 (1967)**

#### **Rule of Law**

**A state may not restrict marriages between persons solely on the basis of race under the Equal Protection and Due Process Clauses of the Fourteenth Amendment.**

# McGowan v. Maryland

#### **Supreme Court of the United States 366 U.S. 420 (1961)**

#### **Rule of Law**

**A state law that criminalizes engaging in certain employment and commercial activities on Sunday does not violate the First Amendment when its purpose is not to aid religion.**

# Gregg v. Georgia

#### **United States Supreme Court 428 U.S. 153 (1976)**

#### **Rule of Law**

**The death penalty is not a per se violation of the Eighth and Fourteenth Amendments to the federal constitution but should be imposed under sentencing procedures to avoid capricious or indiscriminate use.**

# Furman v. Georgia

#### **United States Supreme Court 408 U.S. 238 (1972)**

#### **Rule of Law**

**The sentencing and execution of the death penalty in the petitioners' cases violate the Eighth Amendment prohibition of cruel and unusual punishment.**

# Village of Arlington Heights v. Metropolitan Housing Development Corp.

#### **United States Supreme Court 429 U.S. 252 (1977)**

#### **Rule of Law**

**A state-sponsored racial classification will not be held to violate the Equal Protection Clause of the Fourteenth Amendment unless a plaintiff shows that the law is motivated by a discriminatory purpose and has a discriminatory impact.**

# Regents of the University of California v. Bakke

#### **United States Supreme Court 438 U.S. 265 (1978)**

#### **Rule of Law**

**A university admissions program that relies upon race or nationality as the exclusive basis for admissions decisions violates the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964.**

**Coker v. Georgia**

#### **United States Supreme Court 433 U.S. 584 (1977)**

#### **Rule of Law**

**Imposing the death penalty for the crime of rape violates the Eighth Amendment prohibition on cruel and unusual punishment.**

# \*\*GRAHAM v. FLORIDA\*\*

#### **United States Supreme Court 560 U.S. 48 (2010)**

#### **Rule of Law**

**Imposing a sentence of life in prison without parole upon a juvenile who did not commit homicide violates the Eighth Amendment’s prohibition against cruel and unusual punishment.**

# Kennedy v. Louisiana

#### **United States Supreme Court 554 U.S. 407 (2008)**

#### **Rule of Law**

**The Eighth Amendment prohibits imposition of the death penalty in a criminal case that does not result in the death of a victim.**

# Solem v. Helm

#### **United States Supreme Court 463 U.S. 277 (1983)**

#### **Rule of Law**

**A life sentence without the possibility of parole for a seventh nonviolent felony violates the Eighth Amendment prohibition of cruel and unusual punishment.**

# Ewing v. California

#### **United States Supreme Court 538 U.S. 11 (2003)**

#### **Rule of Law**

**Sentencing a repeat felon to 25 years imprisonment under a state’s three strikes law does not violate the Eighth Amendment prohibition of cruel and unusual punishment.**

# Rummel v. Estelle, Corrections Director

#### **United States Supreme Court 445 U.S. 263 (1980)**

#### **Rule of Law**

**A state has broad discretion to define and punish criminal recidivism.**

# Roper v. Simmons

#### **United States Supreme Court 543 U.S. 551 (2005)**

#### **Rule of Law**

**(1) An individual who has committed capital murder between the ages of fifteen and eighteen cannot be sentenced to death.  
(2) International law and foreign practice, particularly when near-universal in support of a common doctrine or policy, may be considered in interpretations of the Eighth Amendment to the United States Constitution by American courts.**

# Atkins v. Virginia

#### **United States Supreme Court 536 U.S. 304 (2002)**

#### **Rule of Law**

**Capital punishment of an intellectually disabled individual constitutes cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution.**

# Tison v. Arizona

#### **United States Supreme Court 481 U.S. 137 (1987)**

#### **Rule of Law**

**It is constitutionally permissible to sentence a defendant convicted of felony-murder to death even if the defendant neither intended to kill the victim nor actually inflicted the fatal injury if the defendant was a major participant in the felony and possessed a reckless indifference to human life.**

# \*\*GLOSSIP v. GROSS\*\*

#### **United States Supreme Court \_\_\_ U.S. \_\_\_, 135 S. Ct. 2726 (2015)**

#### **Rule of Law**

**A defendant must establish that a method of execution has a substantial risk of harm as compared to a known and available alternative method of execution in order to prove cruel and unusual punishment under the Eighth Amendment.**

# Baze v. Rees

#### **United States Supreme Court 553 U.S. 35 (2008)**

#### **Rule of Law**

**A method of execution must create an intolerable risk of harm to be deemed cruel and unusual.**

# Miller v. Alabama

#### **United States Supreme Court 567 U.S. 460 (2012)**

#### **Rule of Law**

**A mandatory punishment of life without parole for those under the age of 18 at the time the crime is committed violates the Eighth Amendment’s prohibition on cruel and unusual punishment.**

# Kansas v. Marsh

#### **United States Supreme Court 548 U.S. 163 (2006)**

#### **Rule of Law**

**A state law that provides for the imposition of the death penalty if a unanimous jury finds that aggravating circumstances are not outweighed by mitigating circumstances does not violate the Eighth Amendment to the U.S. Constitution.**