**“The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”**

*-- United States Constitution, Amendment IV.*

***California v. Greenwood* Fact Summary**

You now know that you have an expectation of privacy in your belongings when they are in your home – how about in what you throw away? If police suspected you of a crime, could they search your trash to develop evidence against you?

The Supreme Court addressed a similar question in *California v. Greenwood*, 486 U.S. 35 (1988). The question before the Supreme Court was whether Billy Greenwood retained a reasonable expectation of privacy in his garbage.

**FACTS:** Police suspected that Billy Greenwood was involved in dealing drugs and decided to set up surveillance of his home. During their surveillance efforts, they observed Greenwood bringing his trash outside to be collected by the city garbage trucks. Hoping to discover incriminating evidence, the police officers took the garbage before the city could dump it. In the trash bags, the officers found information that was later used in a criminal prosecution of Greenwood. At trial, Greenwood contested the evidence, claiming his Fourth Amendment rights were violated by the search.

**LEGAL ISSUE:** The issue in this case was whether it was reasonable for Greenwood to expect that the trash he left in opaque bags to be picked up by the city would be free from inspection. Is there a privacy violation in having one’s personal refuse exposed to public view?

Mock-Supreme Court Conference Procedures

Note: Actual Supreme Court Conferences, during which the Justices discuss the case, decide the outcome, and select the author of the majority opinion, are confidential.

* + As Justices enter the conference room, they traditionally shake hands all around.
  + The Chief Justice announces a case for discussion.
  + A free discussion of the case is held. Justices will want to try to persuade others and try to form coalitions in order to reach a majority opinion.
  + After 10 minutes, the Chief Justice will initiate a formal vote. (Note that in actual conferences, the Court would deliberate much longer.)
  + The Chief Justice will give his or her vote first, followed by each of the other Justices. (The Court typically does this in order of seniority.)
  + Each Justice should keep a tally of the other Justices' votes and take notes regarding the key reasons that each Justice gives for his or her decision.
  + If the Chief Justice votes with the majority, he/she may elect to write the majority opinion or may assign one of the associate Justices to write it. If the Chief Justice is a dissenter, the most senior associate Justice voting with the majority will make the assignment. Dissenting justices may write one opinion together or each write his/her own. Concurring justices traditionally each write a separate opinion.
  + Either the Chief Justice or, if he or she is in the minority, another student will report the decision to the class as a large group and explain briefly the Court’s decision.

**Excerpts from *California v. Greenwood*:**

Supreme Court of the United States

CALIFORNIA, Petitioner v. Billy GREENWOOD and Dyanne Van Houten.

No. 86-684.

Argued Jan. 11, 1988.

Decided May 16, 1988.

Justice WHITE delivered the opinion of the Court.

The issue here is whether the Fourth Amendment prohibits the warrantless search and seizure of garbage left for collection outside the curtilage of a home [note: “curtilage is the area right outside a home]. We conclude, in accordance with the vast majority of lower courts that have addressed the issue, that it does not. …

II

The warrantless search and seizure of the garbage bags left at the curb outside the Greenwood house would violate the Fourth Amendment only if respondents [Greenwood and friend] manifested a subjective expectation of privacy in their garbage that society accepts as objectively reasonable. … Respondents do not disagree with this standard. They assert, however, that they had, and exhibited, an expectation of privacy with respect to the trash that was searched by the police: The trash, which was placed on the street for collection at a fixed time, was contained in opaque [note: opaque bags are non-see through] plastic bags, which the garbage collector was expected to pick up, mingle with the trash of others, and deposit at the garbage dump. The trash was only temporarily on the street, and there was little likelihood that it would be inspected by anyone. It may well be that respondents did not expect that the contents of their garbage bags would become known to the police or other members of the public. An expectation of privacy does not give rise to Fourth Amendment protection, however, unless society is prepared to accept that expectation as objectively reasonable. Here, we conclude that respondents exposed their garbage to the public sufficiently to defeat their claim to Fourth Amendment protection. It is common knowledge that plastic garbage bags left on or at the side of a public street are readily accessible to animals, children, scavengers, snoops, and other members of the public. … Moreover, respondents placed their refuse at the curb for the express purpose of conveying it to a third party, the trash collector, who might himself have sorted through respondents’ trash or permitted others, such as the police, to do so. Accordingly, having deposited their garbage “in an area particularly suited for public inspection and, in a manner of speaking, public consumption, for the express purpose of having strangers take it,” … respondents could have had no reasonable expectation of privacy in the inculpatory items that they discarded.

…

Justice BRENNAN, with whom Justice MARSHALL joins, dissenting.

Every week for two months, and at least once more a month later, the Laguna Beach police clawed through the trash that respondent Greenwood left in opaque, sealed bags on the curb outside his home.… Complete strangers minutely scrutinized their bounty, undoubtedly dredging up intimate details of Greenwood’s private life and habits.…Scrutiny of another’s trash is contrary to commonly accepted notions of civilized behavior. I suspect, therefore, that members of our society will be shocked to learn that the Court, the ultimate guarantor of liberty, deems unreasonable our expectation that the aspects of our private lives that are concealed safely in a trash bag will not become public.

I

“A container which can support a reasonable expectation of privacy may not be searched, even on probable cause, without a warrant.” ... Thus, as the Court observes, if Greenwood had a reasonable expectation that the contents of the bags that he placed on the curb would remain private, the warrantless search of those bags violated the Fourth Amendment. The Framers of the Fourth Amendment understood that “unreasonable searches” of “paper[s] and effects”--no less than “unreasonable searches” of “person[s] and houses”--infringe privacy. … Our precedent, [], leaves no room to doubt that had respondents been carrying their personal effects in opaque, sealed plastic bags--identical to the ones they placed on the curb--their privacy would have been protected from warrantless police intrusion….

II

Respondents deserve no less protection just because Greenwood used the bags to discard rather than to transport his personal effects. Their contents are not inherently any less private, and Greenwood’s decision to discard them, at least in the manner in which he did, does not diminish his expectation of privacy. A trash bag, …, “is a common repository for one’s personal effects” and, even more than many of them, is “therefore ... inevitably associated with the expectation of privacy… “[A]lmost every human activity ultimately manifests itself in waste products....” A single bag of trash testifies eloquently to the eating, reading, and recreational habits of the person who produced it. A search of trash, like a search of the bedroom, can relate intimate details about sexual practices, health, and personal hygiene. Like rifling through desk drawers or intercepting phone calls, rummaging through trash can divulge the target’s financial and professional status, political affiliations and inclinations, private thoughts, personal relationships, and romantic interests. It cannot be doubted that a sealed trash bag harbors telling evidence of the “intimate activity associated with the ‘sanctity of a man’s home and the privacies of life,’ “ which the Fourth Amendment is designed to protect. … Beyond a generalized expectation of privacy, many municipalities, whether for reasons of privacy, sanitation, or both, reinforce confidence in the integrity of sealed trash containers by “prohibit[ing] anyone, except authorized employees of the Town ..., to rummage into, pick up, collect, move or otherwise interfere with articles or materials placed on ... any public street for collection.” … In fact, the California Constitution, as interpreted by the State’s highest court, guarantees a right of privacy in trash vis-a-vis government officials.…That is not to deny that isolated intrusions into opaque, sealed trash containers occur. When, acting on their own, “animals, children, scavengers, snoops, [or] other members of the public,”… actually rummage through a bag of trash and expose its contents to plain view, “police cannot reasonably be expected to avert their eyes from evidence of criminal activity that could have been observed by any member of the public,”…. Had Greenwood flaunted his intimate activity by strewing his trash all over the curb for all to see, or had some nongovernmental intruder invaded his privacy and done the same, I could accept the Court’s conclusion that an expectation of privacy would have been unreasonable. Similarly, had police searching the city dump run across incriminating evidence that, despite commingling with the trash of others, still retained its identity as Greenwood’s, we would have a different case. But all that Greenwood “exposed ... to the public,” were the exteriors of several opaque, sealed containers. … The mere possibility that unwelcome meddlers might open and rummage through the containers does not negate the expectation of privacy in their contents any more than the possibility of a burglary negates an expectation of privacy in the home; or the possibility of a private intrusion negates an expectation of privacy in an unopened package; or the possibility that an operator will listen in on a telephone conversation negates an expectation of privacy in the words spoken on the telephone. “What a person ... seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.” …

III

In holding that the warrantless search of Greenwood’s trash was consistent with the Fourth Amendment, the Court paints a grim picture of our society. It depicts a society in which local authorities may command their citizens to dispose of their personal effects in the manner least protective of the “sanctity of [the] home and the privacies of life,” … and then monitor them arbitrarily and without judicial oversight--a society that is not prepared to recognize as reasonable an individual’s expectation of privacy in the most private of personal effects sealed in an opaque container and disposed of in a manner designed to commingle it imminently and inextricably with the trash of others. …. The American society with which I am familiar “chooses to dwell in reasonable security and freedom from surveillance,” … and is more dedicated to individual liberty and more sensitive to intrusions on the sanctity of the home than the Court is willing to acknowledge. … I dissent.