



This one really stinks!

CALIFORNIA v. GREENWOOD
SUPREME COURT OF THE UNITED STATES
486 U.S. 35
May 16, 1988
[6 – 2]¹

OPINION: Justice WHITE/REHNQUIST/BLACKMUN/STEVENS/O'CONNOR/SCALIA...
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. We conclude...that it does not.

In early 1984, Investigator Jenny Stracner of the Laguna Beach Police Department received information indicating that respondent Greenwood might be engaged in narcotics trafficking. Stracner learned that a criminal suspect had informed a federal drug enforcement agent in February 1984 that a truck filled with illegal drugs was en route to the Laguna Beach address at which Greenwood resided. In addition, a neighbor complained of heavy vehicular traffic late at night in front of Greenwood's single-family home. The neighbor reported that the vehicles remained at Greenwood's house for only a few minutes.

¹ Justice Kennedy did not take part.

Stracner sought to investigate this information by conducting a surveillance of Greenwood's home. She observed several vehicles make brief stops at the house during the late-night and early morning hours, and she followed a truck from the house to a residence that had previously been under investigation as a narcotics-trafficking location.

On April 6, 1984, Stracner asked the neighborhood's regular trash collector to pick up the plastic garbage bags that Greenwood had left on the curb in front of his house and to turn the bags over to her without mixing their contents with garbage from other houses. The trash collector cleaned his truck bin of other refuse, collected the garbage bags from the street in front of Greenwood's house, and turned the bags over to Stracner. The officer searched through the rubbish and found items indicative of narcotics use. She recited the information that she had gleaned from the trash search in an affidavit in support of a warrant to search Greenwood's home.

Police officers encountered both respondents at the house later that day when they arrived to execute the warrant. The police discovered quantities of cocaine and hashish during their search of the house. Respondents were arrested on felony narcotics charges. They subsequently posted bail.

The police continued to receive reports of many late-night visitors to the Greenwood house. On May 4, Investigator Robert Rahaeuser obtained Greenwood's garbage from the regular trash collector in the same manner as had Stracner. The garbage again contained evidence of narcotics use.

Rahaeuser secured another search warrant for Greenwood's home based on the information from the second trash search. The police found more narcotics and evidence of narcotics trafficking when they executed the warrant. Greenwood was again arrested.

The Superior Court dismissed the charges against respondents on the authority of *People v. Krivda*, which held that warrantless trash searches violate the Fourth Amendment and the California Constitution. The court found that the police would not have had probable cause to search the Greenwood home without the evidence obtained from the trash searches.

The Court of Appeal affirmed...The California Supreme Court denied the State's petition for review of the Court of Appeal's decision. We granted certiorari and now reverse.

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 manifested a subjective expectation of privacy in their garbage that society accepts as objectively reasonable.** *Katz*. 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 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...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. Furthermore, as we have held, the 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...Similarly, we held in *California v. Ciraolo*, that the police were not required by the Fourth Amendment to obtain a warrant before conducting surveillance of the respondent's fenced backyard from a private plane flying at an altitude of 1,000 feet. We concluded that the respondent's expectation that his yard was protected from such surveillance was unreasonable because "[a]ny member of the public flying in this airspace who glanced down could have seen everything that these officers observed."...

The judgment of the California Court of Appeal is therefore reversed, and this case is remanded for further proceedings not inconsistent with this opinion...

DISSENT: Justice BRENNAN/MARSHALL...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...

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...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...

"Almost every human activity ultimately manifests itself in waste products..." (renowned archaeologist Emil Haury once said, "[i]f you want to know what is really going on in a community, look at its garbage")...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...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.