sonable perception standard[219] and applied it in several cases in which admissibility of evidence turned on whether a seizure of the person not justified by probable cause or reasonable suspicion had occurred prior to the uncovering of the evidence. No seizure occurred, for example, when INS agents seeking to identify illegal aliens conducted workforce surveys within a garment factory; while some agents were positioned at exits, others systematically moved through the factory and questioned employees.[220] This brief questioning, even with blocked exits, amounted to "classic consensual encounters rather than Fourth Amendment seizures."[221] The Court also ruled that no seizure had occurred when police in a squad car drove alongside a suspect who had turned and run down the sidewalk when he saw the squad car approach. Under the circumstances (no siren, flashing lights, display of a weapon, or blocking of the suspect's path), the Court concluded, the police conduct "would not have communicated to the reasonable person an attempt to capture or otherwise intrude upon [one's] freedom of movement."[222]

Soon after, however, the Court departed from the *Mendenhall* reasonable-perception standard and adopted a more formalistic approach, holding that an actual chase with evident intent to capture did not amount to a "seizure" because the suspect had not complied with the officer's order to halt. The Court in *California v. Hodari D.* wrote that *Mendenhall* stated a "necessary" but not a "sufficient" condition for a seizure of the person through show of authority.[223] A Fourth Amendment "seizure" of the person, the Court determined, is the same as a common law arrest; there must be either application of physical force (or the laying on of hands), or submission to the assertion of authority.[224] Indications are, however, that *Hodari D.* did not signal the end of the reasonable perception standard, but merely carved an exception applicable to chases and perhaps other encounters between suspects and police.

Later in the same term the Court ruled that the *Mendenhall* "free-to-leave" inquiry was misplaced in the context of a police sweep of a bus, but that a modified reasonable perception approach still

---

[219] *See, e.g.*, Florida v. Royer, 460 U.S. 491 (1983), in which there was no opinion of the Court, but in which the test was used by the plurality of four, id. at 502, and also endorsed by dissenting Justice Blackmun, id. at 514.

[220] INS v. Delgado, 466 U.S. 210 (1984).

[221] 466 U.S. at 221.

[222] Michigan v. Chesternut, 486 U.S. 567, 575 (1988).

[223] 499 U.S. 621, 628 (1991). As in Michigan v. Chesternut, *supra*, the suspect dropped incriminating evidence while being chased.

[224] Adherence to this approach would effectively nullify the Court's earlier position that Fourth Amendment protections extend to "seizures that involve only a brief detention short of traditional arrest." United States v. Brignoni-Ponce, 422 U.S. 873, 878 (1975), *quoted in* INS v. Delgado, 466 U.S. 210, 215 (1984).