* Chief Justice SWANBOM delivered the opinion of the Court.

Smith v. United States

A reasonable level of privacy is an expectation that is necessary within a democratic society. The Fourth Amendment of the Constitution states,

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 issued, 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.

In essence, the Fourth Amendment ensures the citizens of the United States a certain amount of privacy. It is reasonable for citizens of the United States to expect privacy; however, it is also reasonable to conclude that the Fourth Amendment protects the rights of the people, not the place.

The rise of technology and the advent of the internet have developed a new frontier for privacy issues. Is it reasonable for a person to expect the emails that are sent from their personal computer to be private? If a person has saved an email for 180 days does that mean that the government should have a right to seize it without a warrant? In truth, it could be argued that if an email has been reserved for 180 days that it is not garbage, but instead deemed important.

In Mark Rasch’s article “No Email Privacy Rights under Constitution” he claims, “At issue is whether the procedure whereby the government can subpoena stored copies of your email - similar to the way they could simply subpoena any physical mail sitting on your desk - is unconstitutionally broad.” The broad nature of this issue needs to be narrowed, and it is the belief of this court that a person should expect the same privacy with email that they would expect with a paper letter. If the constitution is to protect the person, it is this court’s belief that the email saved within the hard drive of a computer is merely an extension of the person. Therefore, it is assumed that a person’s email would fall under the same privacy rights.

In addition to the privacy rights associated with emails, it is necessary to address the privacy issues related to GPS systems. These systems are embedded within our cellular devices and any technology with 3G. Today, wireless devices are designed and sold with the E911 feature which is a tracking tool. The customer does not have a choice, and many times is not even aware the equipment is a part of their wireless device. In his article “Your Cell Phone is a Homing Device” Brendan I. Koerner reports, “Back to square one, then: no clear laws, no bureaucratic oversight, a permissive judiciary. Aside from saying—trust us.” In essence, technology is advancing faster than the laws can be written to support it. The Fourth Amendment of the Constitution provides the language which supports the expectation of privacy that Americans have come to anticipate.