

A farmer had been missing for several months. The sheriff's department received an anonymous tip that a woman, the farmer's business rival, had buried the farmer in a hillside about 200 yards from the woman's farmhouse. Sheriff's deputies went to the woman's farm. They cut the barbed wire that surrounded the hillside and entered, looking for the grave. They also searched the adjacent fields on the woman's farm that were within the area enclosed by the barbed wire and discovered clothing that belonged to the farmer hanging on a scarecrow. The woman was later charged with murder.

If the woman moves to exclude the introduction of the farmer's clothing into evidence, how will the court likely rule on the motion?

- A. Deny the motion, because the clothing was not the woman's property.
- B. Deny the motion, because the deputies did not need a warrant to search the fields around the woman's farmhouse.
- C. Grant the motion, because the deputies' conduct in its entirety violated the woman's right to due process of law.
- D. Grant the motion, because the deputies had not obtained a warrant.

Explanation:

The Fourth Amendment protects persons from unreasonable searches and seizures. To determine whether a **Fourth Amendment search** has occurred, courts use both:

the **physical trespass test** – whether the government physically intruded upon a **constitutionally protected area**—a person's body, house (dwelling and curtilage), papers, or effects—to obtain information *and*

the **reasonable expectation of privacy test** – whether the government invaded (1) a person's **subjective expectation** of privacy (2) that society would find **objectively reasonable**.

A Fourth Amendment search conducted without a warrant based on probable cause is presumptively unreasonable, and any evidence stemming from the search may be excluded at trial.

Here, the deputies found the farmer's clothes when they went onto the adjacent fields of the woman's farm. However, the deputies did not conduct a Fourth Amendment search of the fields because:

the fields lie outside the constitutionally protected area of the woman's home *and*

although the woman manifested a subjective expectation of privacy by erecting a barbed wire fence around the fields, society would find her expectation unreasonable since the public can easily view/access them.

As a result, the deputies did not need a warrant to inspect the woman's fields, and the court will likely deny her motion to exclude the farmer's clothing from evidence.

(Choice A) A defendant can move to suppress any evidence seized during an unreasonable search, including evidence that he/she does not own. Therefore, the fact that the clothing belonged to the farmer—not the woman—would not serve as a basis for denying her motion.

(Choice C) Due process protects a defendant's right to fair legal proceedings by, in part, precluding the admission of illegally obtained evidence. Here, the deputies *lawfully* obtained the farmer's clothing, so admitting that evidence would not violate due process.

(Choice D) Since the deputies did not conduct a Fourth Amendment search, they did not need a warrant to enter the woman's fields.

Educational objective:

A government intrusion upon open fields does not trigger Fourth Amendment protections since open fields are not constitutionally protected areas and persons have no reasonable expectation of privacy in those areas.

References

U.S. Const. amend. IV (prohibition against unreasonable searches and seizures).

Hester v. United States, 265 U.S. 57, 59 (1924) (recognizing that open fields are not constitutionally protected areas).

Oliver v. United States, 466 U.S. 170, 179–81 (1984) (explaining that an individual has no reasonable expectation of privacy in open fields).

Copyright © 2002 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.

