

Without a warrant, police officers searched the garbage cans in the alley behind a man's house and discovered chemicals used to make methamphetamine, as well as cooking utensils and containers with the man's fingerprints on them. The alley was a public thoroughfare maintained by the city, and the garbage was picked up once a week by a private sanitation company. The items were found inside the garbage cans in plastic bags that had been tied closed and further secured with tape. The man was charged in federal court with the manufacture of methamphetamine.

Did the search of the garbage cans violate the Fourth Amendment?

- A. No, because the man had no reasonable expectation of privacy in garbage left in the alley.
- B. No, because the probative value of the evidence outweighs the man's modest privacy claims in his garbage.
- C. Yes, because the alley was within the curtilage of the man's home and entry without a warrant was unconstitutional.
- D. Yes, because there is a reasonable expectation of privacy in one's secured garbage containers.

Explanation:

The **Fourth Amendment** is violated when the government conducts an unreasonable search or seizure—ie, when police act without a warrant and no **exception** applies. A Fourth Amendment **search** occurs if one of the following tests is met:

Physical trespass test – the government physically intruded upon a **constitutionally protected area** to obtain information (eg, an intrusion upon the curtilage—the area immediately surrounding and commonly associated with a person's dwelling).

Reasonable expectation of privacy test – the government invaded a person's **subjective** expectation of privacy that society would find **objectively reasonable**.

In *California v. Greenwood*, the Supreme Court held that (1) public areas are not constitutionally protected and (2) persons have no reasonable expectation of privacy in items that are accessible or visible to anyone (including police). Therefore, police may freely inspect **items left in a public area or exposed to the public**.

Here, the officers did not conduct a search under the *physical trespass test* since the garbage cans were in a *public* thoroughfare located behind the man's house—not a constitutionally protected area (**Choice C**). Additionally, there was no search under the *reasonable expectation of privacy test* since the man had no objectively reasonable expectation of privacy in garbage cans that were readily accessible in a *public* alley (**Choice D**). Therefore, the officers did not violate the Fourth Amendment when they rummaged through the garbage cans.

(Choice B) The probative value of the evidence sought (ie, its tendency to make a fact more or less probable) cannot justify a violation of the defendant's Fourth Amendment right to privacy—no matter how modest. Instead, probative value is used to determine whether the evidence is relevant and admissible at trial.

Educational objective:

The government does not need a warrant to inspect items left in a public area or exposed to the public since (1) public areas are not constitutionally protected and (2) persons have no reasonable expectation of privacy in such items.

References

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

California v. Greenwood, 486 U.S. 35, 40–41 (1988) (recognizing that individuals do not have a reasonable expectation of privacy in garbage placed on a public street).

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Physical trespass of constitutionally protected area



■ = dwelling ■ = curtilage
└──────────┘
protected

■ = public area
└──────────┘
unprotected