

Legal Analysis Memorandum

Name:

Institution Affiliation:

### Abstract

The Fourth Amendment of the American Constitution provides for the protection of every American citizen through according them the right to be secure in their persons, houses, papers, and personal effects from unreasonable searches or arrests, unless otherwise permitted by oaths or affirmations that describe the places to be searched, as well as the items and persons to be seized. Consequently, the Fourth Amendment accords every citizen a personal right that can be invoked by the individual to ensure the protection against arbitrary arrests and invasion of privacy. Thus, essentially the amendment protects individuals albeit it may stretch to protect places if the person can show that he had a legitimate expectation of privacy such as a guest living in the house of someone else, as was the case in *Minnesota v. Olson*, 495 U.S. 91. Law enforcement officers while in the exercise of their duty to protect and serve often violate the citizen's rights as contained in the Fourth Amendment provisions by enforcing warrantless arrests and seizures. Based on the aforementioned facts, the present study seeks to elucidate the legality of warrantless seizures and arrest while explaining the thin line between what is lawful versus those actions that are outright illegitimate.

## Legal Analysis Memorandum

**Memorandum**

To: Supervising Attorney

From: Junior Associate

Re: *Blakely v. Washington*, 542 U.S. 296

**Facts:**

Jonathan Blakely was arrested for the possession of a controlled substance by the Metropolitan Police Department. He had been at his friend's, Jessie Smith, house when the police got a call from a neighbor concerning the noise emanating from the Smith residence. Responding to this report, the police headed to the address of the house co-owned by Jessie Smith and his wife, from where they observed Blakely and his friends smoking marijuana. The law enforcement agencies also saw him passing a bag with a white powder to someone standing next to the couch. The police knocked on the door and after Blakely and his friends hid the drugs, he opened the door and granted them access. However, the law enforcement agents responded that they had seen everyone smoke marijuana via the large living room window and that they had seen the transfer of the package between Blakely and the other person. The police observed something that looked like a shotgun sandwiched between two cushions on the couch near Blakely. Upon inspection, the officers discovered that there were other firearms and that they were not registered per the Washington D.C. laws and the ownership was still in dispute.

The officers then conducted a pat down search of everyone else in the room and found on Blakely a large amount of suspected marijuana, cocaine as well as money amounting to \$ 400. The other man who had been seen by the officers being passed a baggie containing white powder had in his possession a baggie of suspected cocaine (white powder). Chemical tests done on the substances seized confirmed that they it was cocaine and marijuana.

Consequently, Blakely was charged with the crime of being in the possession of a controlled substance, distribution of the controlled stimulant, as well as the possession of an unregistered gun.

**Issue:**

- a. Whether the search conducted by the police officers in the absence of a search warrant violated the Constitution's protection against unwarranted searches and seizures provided by the Fourth Amendment.
- b. Whether there is sufficient evidence to prove beyond reasonable doubt that the defendant is guilty.

**Rule:**

The court cannot preclude, according to the plain-view doctrine, the admissibility of evidence acquired through warrantless searches and seizures even though the acquisition of such evidence was made inadvertently. The Fourth Amendment, therefore, based on this fact, does not protect the individual from said searches and seizures.

**Analysis:**

The *Horton v. California*, 496 U.S. 128 is significant in the present case as the plain-view doctrine was applied, where a search warrant was sought by the police to recover weapons and proceeds, but only a warrant for the recovery of profits alone was issued. The police officer proceeded to search the house and discovered weapons in plain view, which he seized. The accused sought to suppress the evidence seized because it was in violation of his Fourth Amendment Rights, but the court admitted the evidence as it was recovered inadvertently and in plain view sight.

The facts of the *Blakely v. Washington*, 542 U.S. 296 case are also similar to those in *Horton vs. California* because in the latter, the police were only responding to a call from the neighborhood about noise emanating from the household. Nonetheless, after responding

to the disturbance call, the police officers saw, in plain sight, the defendant and his friends, smoking marijuana and handing over a bag with white suspicious chemicals. The police officers also saw, in plain sight upon entry into the house, a shotgun hidden between two cushions. Moreover, after further search, the law enforcement agents found more firearms hidden beneath the house. Chemical tests confirmed that indeed the powder and substance the defendant and his friends smoked was cocaine and marijuana respectively. It was further found that the seized weapons were unregistered, which was illegal within the district.

Relying on the plain view doctrine alone to justify a warrantless seizure is not enough.

According to the plain view doctrine, the object of incriminating nature must be immediately apparent and must have been discovered inadvertently. The police officers had seen the violations of law from the large living room window and had proceeded to enter the house only to find firearms in plain sight (American Judicature Soc n.d.). The prohibition set by the Fourth Amendment against general searches that are unreasonable protects the sanctity of privacy and security by ensuring that a police officer has a lawful right to access the individual's property before doing so. A law enforcement officer has legal right to access an item in plain view and has the right to seize it without a warrant. Therefore, the police officers in Blakely's case had the right to access and take the items they inadvertently found in Smith's home. Concerning proof beyond reasonable doubt, it suffices to say that the evidence against Blakely works entirely against him. He was found in possession of weapons that were unregistered, an act that was prohibited under the District of Columbia statute laws on weapon possession. The accused was also seen in plain view, engaging in the distribution of cocaine, which is a controlled substance in the District of Columbia, while at the same time; he was smoking of another controlled substance, which was marijuana.

The Fourth Amendment that protects the sanctity of privacy and security of individuals on their person, homes, and their property, only precludes the admission of

evidence against the accused if the proof was not inadvertently discovered. Consequently, the items, as stated earlier were all accidentally discovered in plain view site, so there are no violations of constitutional rights (Storm, 2000). The police had a legitimate reason to be present at Smith's residence (as they were responding to a neighbor's complaint about disturbance) and hence in the absence of a warrant had permission to conduct a warrantless seizure based on the plain view policy.

### **Conclusion**

The doctrine of plain view is clear on whether unwarranted seizures and searches violate the rights accorded by the Fourth Amendment. The facts of *Blakely v. Washington*, 542 U.S. 296 clearly speak for themselves by justifying the warrantless search based on the plain view doctrine. The police had a legitimate right to be present at Smith's residence at the time the warrantless search and seizure was conducted since they were discharging their duties as police officers responding to a disturbance call in the neighborhood. The defendant is guilty, without reasonable doubt of the crime of possession and distribution of controlled substances namely marijuana and cocaine as well as the possession of an unregistered firearm.

References

*Horton v. California*, 496 U.S. 128, 110 S. Ct. 2301, 110 L. Ed. 2d 112 (1990).

*Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004).

*Minnesota v. Olson*, 495 U.S. 91, 110 S. Ct. 1684, 109 L. Ed. 2d 85 (1990).

American Judicature Soc, United States of America, US Dept of Justice, Law Enforcement

Assistance Admin, United States of America, American Judges Assoc, ... & United

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Storm, L., (2000). *An introduction to criminal law*. Sudbury, Mass: Jones and Bartlett

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