

# State Constitutional Law

## 12 - Criminal Procedure

**But first...**

# **Civil Union and Same-Sex Marriage**

# Questions to guide us

How should we understand the differences between policy preferences and constitutional interpretation?

How should a constitution be interpreted? What should be the role of history in our understanding of constitutional provisions?

What constitutional provisions are a legitimate source for a particular right? What is too much of a stretch?

How should stare decisis factor into the analysis?

# Baker v. State

744 A.2d 864 (Vt. 1999)

# The Common Benefits Clause

“That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community.” Vermont Const. (Chapter I, Article 7).

# Three-part analysis

1. Significance of the benefits
2. Government's goals
3. Classification under- or over-inclusive

# Goodridge v. Department of Public Health

798 N.E.2d 941 (Mass. 2003)

# Criminal Procedure

## *Search and Seizure*



# Review of Crim Pro Cases

**Sitz v. Department of State Police**

506 N.W.2d 209 (Mich. 1993)

**State v. Hemptele**

576 A.2d 793 (N.J. 1990)

**State v. Wright**

961 N.W.2d 396 (Iowa 2021)

# Review of Crim Pro Cases

**State v. Jordan**

156 P.3d 893 (Wash. 2007)

**State v. Mixton**

478 P.3d 1227 (Ariz. 2021)

**Ohio v. Robinette**

653 N.E.2d 695 (Ohio 1995)

**What should I focus upon?**

*or*

**How in the hell am I supposed to learn all of crim pro in a week and why did I sign up for this class?**

# Topics

- Search and seizure
  - Probable cause
  - Good faith exception
  - Warrant requirement
  - Automobile searches
- Double jeopardy
- Cruel and unusual punishment

# Questions to guide us for search and seizure

What is the nature of a right “against unreasonable searches and seizures”? How should that right be protected?

If search warrants require probable cause, what is probable cause?

When is a warrantless search still reasonable?

How should stare decisis factor into constitutional interpretation, particularly when federal and state precedents are intertwined?

# *Probable Cause*

**People v. Griminger**

524 N.E.2d 409 (N.Y. 1988)

**State v. Tuttle**

515 S.W.3d 282 (Tenn. 2017)

# Aguilar / Spinelli Test

To establish probable cause, a search warrant affidavit must demonstrate:

1. the basis of the informant's knowledge, and
2. the credibility of the informant or the reliability of the information.

# Gates Test

To determine whether an affidavit establishes probable cause, a magistrate should consider the totality of the circumstances.

# *Good Faith Exception*

**State v. Koivu**

272 P.3d 483 (Idaho 2012)

**Commonwealth v. Edmunds**

586 A.2d 887 (Pa. 1991)



# History of federal exclusionary rule

## **Weeks v. United States (1914)**

Federal exclusionary rule.

## **Wolf v. Colorado (1949)**

Fourth Amendment applies to states, but remedy up to states to decide.

## **Mapp v. Ohio (1961)**

Exclusionary rule applies to the states.

## **Stone v. Powell (1976)**

Exclusionary rule not a constitutional right but designed to deter police misconduct.

## **United States v. Leon (1984)**

Good faith exception

# Idaho Precedents

**State v. Arregui**  
(Idaho 1927)

**State v. Rauch**  
(Idaho 1978)

# Pennsylvania's Analytic Framework

For state constitutional law issues, litigants should analyze:

1. Text of the state constitution
2. History of the constitutional provision, including case law
3. Related case law from other states
4. Policy considerations

# *Warrant Requirement*

**State v. Earls**

70 A.3d 630 (N.J. 2013)

**State v. Bryant**

950 A.2d 467 (Vt. 2008)

**State v. Leonard**

943 N.W.2d 149 (Minn. 2020)

# What constitutes a search?

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 issue, 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.

# Contrast

**State v. Earls**

70 A.3d 630 (N.J. 2013)

with

**United States v. Jones (2012)**

Police installation of a tracking device on defendant's car constitutes a trespass, therefore a search warrant was required.

# Reasonable expectation of privacy

1. Defendant had an expectation of privacy
2. This expectation of privacy is one that society finds reasonable

# Contrast

**State v. Bryant**

950 A.2d 467 (Vt. 2008)

with

**Florida v. Riley (1989)**

A defendant has no reasonable expectation of privacy from a police helicopter flying above their home, therefore no search warrant is required.



# State v. Leonard

943 N.W.2d 149 (Minn. 2020)