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A Reasonable Belief that a Third Party Had Authority to Consent to a Search Is an Exception to the Warrant Requirement.

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CRIMINAL PROCEDURE—Search and Seizure—A Reasonable Belief that a Third Party had Authority to Consent to a Search is an Exception to the Warrant Requirement.

Illinois v. Rodriguez,
497 U.S. __, 110 S. Ct. 2793, 111 L. Ed. 2d 148 (1990).

On July 26, 1985, Gail Fischer informed Chicago police officers that her boyfriend, Edward Rodriguez, had beaten her.[1] She told the officers that the assault had occurred earlier that day at what she referred to several times as "our" apartment.[2] Although Fischer had previously lived with Rodriguez, she had been staying with her mother for nearly one month.[3] Fischer accompanied the officers to the apartment and let them in with her key, so they could arrest Rodriguez.[4] Once inside, the police observed drug paraphernalia and several containers of white powder in plain view.[5] The powder was later proved to be cocaine.[6] The police officers seized the drugs and arrested Rodriguez, charging him with possession of a controlled substance.[7] At trial, Rodriguez moved to suppress the evidence obtained during his arrest.[8] The Cook County Circuit Court excluded the evidence, holding that Fischer had no authority to consent to the officers' entry.[9] The trial court rejected the state's claim that Rodriguez's fourth amendment rights were not vio-

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1. Illinois v. Rodriguez, 497 U.S. __, __, 110 S. Ct. 2793, 2796, 111 L. Ed. 2d 148, 155 (1990). Fischer appeared to have been severely beaten. *Id.*

2. *Id.* at __, 110 S. Ct. at 2796-97, 111 L. Ed. 2d at 155. Fischer also told officers that she had clothes and furniture at the apartment. *Id.* The record is unclear as to whether Fischer indicated that she presently resided at the apartment, or had previously lived there. *Id.*

3. *Id.* at __, 110 S. Ct. at 2797-98, 111 L. Ed. 2d at 156-57. Gail Fischer and her two small children lived with Rodriguez from December 1984 to July 1, 1985. *Id.*

4. *Id.* at __, 110 S. Ct. at 2797, 111 L. Ed. 2d at 155. Fischer told the officers that Rodriguez was asleep in the apartment. *Id.* She unlocked the door for the officers and gave them permission to enter. *Id.* At trial, Fischer said she had taken the key without Rodriguez's knowledge. *Id.* at __, 110 S. Ct. at 2798, 111 L. Ed. 2d at 157.

5. *Id.* at __, 110 S. Ct. at 2797, 111 L. Ed. 2d at 156. Officers saw the powder in both the living room and bedroom of the apartment. *Id.*

6. *Id.*

7. *Id.* at __, 110 S. Ct. at 2797, 111 L. Ed. 2d at 156. Rodriguez was also charged with intent to deliver the controlled substance. *Id.*

8. *Id.* Rodriguez contended that Fischer did not have authority to consent to the police entry and, therefore, the search was illegal. *Id.*

9. *Id.* The Court classified Fischer as an "infrequent visitor" and not a "usual resident." *Id.* This was predicated on the Court's findings that Fischer did not contribute to rent; her name was not on the lease; she could not invite others to the apartment; she only had access to

lated because the police reasonably believed that Fischer had authority over Rodriguez's apartment at the time she consented to the officers' entry.[10] The appellate court affirmed this holding and the Illinois Supreme Court refused to grant the state's petition for leave to appeal.[11] The United States Supreme Court granted certiorari to determine whether a warrantless search is valid when police rely on the consent of a third party whom they reasonably believe has common authority over an area, but in actuality does not.[12] Held - *Reversed and remanded.* A reasonable belief that a third party had authority to consent to a search is an exception to the warrant requirement.[13]

The fourth amendment to the United States Constitution protects the people and their possessions by prohibiting unreasonable searches by government authorities.[14] Although this protection extends to any place where a person may claim a reasonable expectation of privacy,[15] it especially protects the right of the people to privacy in their homes.[16] The fourth amendment

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the apartment when Rodriguez was there; and that she had removed some of her things from the apartment. *Id.*

10. *Id.* at __, 110 S. Ct. at 2797, 111 L. Ed. 2d at 156. The trial court concluded that Fischer had no actual authority to consent to the search. *Id.*

11. *Id.*; *see also* People v. Rodriguez, 537 N.E.2d 816 (Ill. 1989) (petition for leave to appeal denied; opinion not published).

12. Illinois v. Rodriguez, 497 U.S. __, __, 110 S. Ct. 2793, 2796, 111 L. Ed. 2d 148, 155 (1990).

13. *Id.* at __, 110 S. Ct. at 2800, 111 L. Ed. 2d at 160.

14. *See* U.S. CONST. amend. IV. The fourth amendment provides in part: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." *Id.*; *see also* United States v. Jacobsen, 466 U.S. 109, 113 (1984) (fourth amendment protection only applies to governmental action); Payton v. New York, 445 U.S. 573, 584-85 (1980) (fourth amendment applies to seizures of person and property equally); United States v. Jeffers, 342 U.S. 48, 51 (1951) (fourth amendment applies to both houses and effects). *See generally* E. GRISWOLD, SEARCH AND SEIZURE: A DILEMMA OF THE SUPREME COURT 1-37 (1975) (discussing fourth amendment case development); W. RINGEL, SEARCHES & SEIZURES, ARRESTS AND CONFESSIONS § 6, at 14-15 (1972) (defining privacy right under fourth amendment).

15. *See* United States v. Chadwick, 433 U.S. 1, 7 (1977) (fourth amendment protects "legitimate expectations of privacy"); *see also* Robbins v. California, 453 U.S. 420, 425 (1981) (applying fourth amendment protections to closed suitcase); Katz v. United States, 389 U.S. 347, 353 (1967) (protection includes public telephone booth); Lanza v. New York, 370 U.S. 139, 143 (1962) (fourth amendment protection applied to business offices, stores, hotel rooms, apartments, automobiles, and taxicabs). *See generally* Note, *The Reasonable Expectation of Privacy* - Katz v. United States, *A Postscriptum*, 9 IND. L. REV. 468, 487-98 (1976) (discussing expectation of privacy standard); Note, *From Private Places to Personal Privacy: A Post-Katz Study of Fourth Amendment Protection*, 43 N.Y.U. L. REV. 968, 982-86 (1968) (discussing factors determining justifiable reliance upon privacy).

16. *See, e.g.*, United States v. United States Dist. Court, 407 U.S. 297, 313 (1972) (fourth amendment primarily protects against physical entry of home); Lewis v. United States, 385 U.S. 206, 211 (1966) (full range of fourth amendment's protections apply to home); Silverman v. United States, 365 U.S. 505, 511 (1961) (fourth amendment protects right of person to

also prevents unreasonable police conduct by requiring that searches be conducted pursuant to a warrant which is issued based upon probable cause.[17] To ensure that searches are reasonable, a judicially created doctrine provides that evidence which is discovered in an unreasonable search will be excluded at trial.[18] The purpose of this exclusionary rule is to protect privacy by deterring future illegal conduct by police officials in the performance of searches.[19]

Where reasonable official conduct can be ensured, the Supreme Court has created exceptions to both the exclusionary rule and the warrant requirement.[20] Exceptions to the exclusionary rule have been created where official

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retreat into own home to avoid unreasonable governmental intrusions). *See generally* Kitch, Katz v. United States: *The Limits of the Fourth Amendment*, 1968 SUP. CT. REV. 133, 136-37 (1968) (owner's relationship to home invokes protection of fourth amendment); Note, *Katz and the Fourth Amendment: A Reasonable Expectation of Privacy or, A Man's Home Is His Fort*, 23 CLEV. ST. L. REV. 63, 67-72 (1974) (discussing privacy expectation in home).

17. U.S. CONST. amend. IV. The fourth amendment provides in part: ". . . [N]o 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." *Id.*; *see also* New York v. Belton, 453 U.S. 454, 457 (1981) (police must convince neutral magistrate of probable cause to conduct search); Steagald v. United States, 451 U.S. 204, 212 (1981) (purpose of warrant to permit neutral determination of probable cause by judicial officer); Coolidge v. New Hampshire, 403 U.S. 443, 474-75 (1971) (search without warrant per se unreasonable unless within defined exceptions). *See generally* Goldstein, *The Search Warrant, the Magistrate, and Judicial Review*, 62 N.Y.U. L. REV. 1173-89 (1987) (discussing warrant requirement); Project, *Eighteenth Annual Review of Criminal Procedure: United States Supreme Court and Courts of Appeals 1987-1988*, 77 GEO. L.J. 489, 495-517 (1989) (discussing types of warrants, when required, and substance of warrant).

18. *See* Weeks v. United States, 232 U.S. 383, 398 (1914) (prejudicial error committed by use of unreasonably seized papers at trial); *see also* Mapp v. Ohio 367 U.S. 643, 655 (1961) (rule excluding illegally obtained evidence applied to states); Silverthorne Lumber Co. v. United States, 251 U.S. 385, 392 (1920) (not only may illegally obtained evidence not be used in court, no use may be made of it at all). *See generally* LaFave, *The Fourth Amendment Today: A Bicentennial Appraisal*, 32 VILL. L. REV. 1061, 1082-86 (1987) (discussing exclusionary rule); Office of Legal Policy, *Report to the Attorney General on the Search and Seizure Exclusionary Rule*, 22 U. MICH. J.L. REF. 573, 575-78 (1989) (discussing history, pros and cons of exclusionary rule).

19. *See* Terry v. Ohio, 392 U.S. 1, 12 (1968) (thrust of rule is to discourage unlawful police conduct); Elkins v. United States, 364 U.S. 206, 217 (1960) (purpose of exclusionary rule is prevention); Jones v. United States, 362 U.S. 257, 261 (1960) (excluding improperly seized evidence protects privacy). *See generally* Oaks, *Studying the Exclusionary Rule in Search and Seizure*, 37 U. CHI. L. REV. 665, 674-78 (1970) (discussing deterrent effect of exclusionary rule); Critique, *On the Limitations of Empirical Evaluations of the Exclusionary Rule: A Critique of the Spiotto Research and* United States v. Calandra, 69 NW. U.L. REV. 740, 740-46 (1974) (defending effectiveness and purpose of exclusionary rule).

20. *See, e.g.*, United States v. Leon, 468 U.S. 897, 919-20 n.20 (1984) (emphasizing objective reasonableness standard of review adopted for cases involving good faith exception to exclusionary rule); Schneckloth v. Bustamonte, 412 U.S. 218, 233 (1973) (exception requires voluntary consent for search to be reasonable); *Terry*, 392 U.S. at 28 (warrantless search of

behavior will not be affected by the exclusion of evidence.[21] For instance, if police officers rely upon a warrant in good faith, and the warrant later proves invalid, the fruits of the search will not be excluded at trial.[22] This good faith exception to the exclusionary rule also applies where officers reasonably rely upon a statute which later proves to be constitutionally invalid.[23]

There are also some limited exceptions to the warrant requirement, one of which is consent.[24] Historically, consent searches were considered reason-

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possibly armed suspect reasonable due to public safety interests). *See generally* Sikma, *Collateral Search: A Survey of Exceptions to the Warrant Requirement*, 21 S.D.L. REV. 254, 255 (1976) (discussing reasonableness and warrantless searches).

21. *See* Illinois v. Krull, 480 U.S. 340, 352 (1987) (invalidating statute, not exclusionary rule, affects legislators' behavior); *Leon*, 468 U.S. at 921 (exclusionary rule's deterrent effect not aided by punishing police for magistrate's error); *see also* Massachusetts v. Sheppard, 468 U.S. 981, 990-91 (1984) (deterrent function of exclusionary rule not served by suppressing evidence because of clerical errors in warrant). *See generally* Goldstein, *The Search Warrant, the Magistrate, and Judicial Review*, 62 N.Y.U. L. REV. 1173, 1203-06 (1987) (discussing options which would deter judicial misconduct regarding warrants); Note, Illinois v. Krull: *Extending the Fourth Amendment Exclusionary Rule's Good Faith Exception to Warrantless Searches Authorized by Statute*, 66 N.C.L. REV. 781, 796-800 (1988) (discussing exclusionary rule's lack of deterrent effect on legislators).

22. *See Sheppard*, 468 U.S. at 987-88 (exclusionary rule non-applicable where objective police reliance on warrant reasonable); *Leon*, 468 U.S. at 926 (exclusion only appropriate where officers belief in probable cause is not reasonable); *see also* Maryland v. Garrison, 480 U.S. 79, 88 (1987) (search valid where officers interpretation of warrant is reasonable). *See generally* Note, *Application Problems Arising From the Good Faith Exception to the Exclusionary Rule*, 28 WM. & MARY L. REV. 743, 744-48 (1987) (discussing history and development of good faith exception); Note, *Constitutional Criminal Procedure—The Good Faith Exception in Action*—Massachusetts v. Sheppard, 59 TUL. L. REV. 1100, 1103-05 (1985) (discussing development of good faith exception).

23. Illinois v. Krull, 480 U.S. 340, 349-50 (1987); *see also* Michigan v. DeFillippo, 443 U.S. 31, 40 (1979) (police reliance on city ordinance reasonable); United States v. Peltier, 422 U.S. 531, 541-42 (1975) (court cannot blame those who conform conduct to statutory or constitutional norms). *See generally* Note, Illinois v. Krull: *Extending the Fourth Amendment Exclusionary Rule's Good Faith Exception to Warrantless Searches Authorized by Statute*, 66 N.C.L. REV. 781, 784-87 (1988) (discussing application of exclusionary rule where police rely on statute).

24. *See* Schneckloth v. Bustamonte, 412 U.S. 218, 219 (1973) (consent is exception to both warrant and probable cause requirements); *see also* Davis v. United States, 328 U.S. 582, 593-94 (1946) (finding consent to officers' request for inspection of public documents); Zap v. United States, 328 U.S. 624, 629 (1946) (finding consent in contractual agreement for government inspections). *See generally* J. HALL, SEARCH AND SEIZURE §§ 4:1-4:6 (1982) (discussing case development of consent searches). Warrantless searches may also be conducted when they are incident to a lawful arrest. *See, e.g.*, Agnello v. United States, 269 U.S. 20, 30 (1925) (no doubt as to right of police to make search incident to arrest); Carroll v. United States, 267 U.S. 132, 158 (1925) (search allowed during legal arrest and evidence produced may be used in prosecution); Weeks v. United States, 232 U.S. 383, 392 (1914) (government right to search arrestee consistently recognized by English and American law). *See generally* Williamson, *The*

able because they were viewed as a waiver of fourth amendment rights.[25] The Court currently ensures reasonable police behavior by requiring that consent to a search be freely granted.[26] Any consent which is granted in submission to authority or because of deception or coercion is not valid.[27] In reviewing questions of voluntariness, the court must take into account all of the circumstances surrounding the search.[28] Reasonableness is further

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Supreme Court, Warrantless Searches, and Exigent Circumstances, 31 OKLA. L. REV. 110, 124-28 (1978) (discussing cases developing exception for searches incident to arrest); Note, *Warrantless Vehicle Searches and the Fourth Amendment: The Burger Court Attacks the Exclusionary Rule*, 68 CORNELL L. REV. 105, 119-22 (1982) (discussing relationship between incident to arrest exception and exigent circumstances). Other exceptions to the warrant requirement are based on the existence of exigent circumstances. *See, e.g.*, Warden v. Hayden, 387 U.S. 294, 298-99 (1967) (fourth amendment does not require officials to delay when life in danger); McDonald v. United States, 335 U.S. 451, 455-56 (1948) (warrantless search requires exceptional circumstances); *Carroll*, 267 U.S. at 153 (discussing differences between movable and immovable areas and allowing warrantless automobile search). *See generally* Mascolo, *The Emergency Doctrine Exception to the Warrant Requirement Under the Fourth Amendment*, 22 BUFFALO L. REV. 419, 425-38 (1973) (discussing applicability of emergency doctrine exception); Note, *The Emergency Doctrine, Civil Search and Seizure, and the Fourth Amendment*, 43 FORDHAM L. REV. 571, 581-88 (1975) (discussing emergency doctrine).

25. *See Zap*, 328 U.S. at 628 (privacy right waived where government granted power to inspect books); *see also* Johnson v. United States, 333 U.S. 10, 13 (1948) (waiver must be intentional); Amos v. United States, 255 U.S. 313, 317 (1921) (no waiver found where police coercion applied). *See generally* Project, *District of Columbia Court of Appeals Project on Criminal Procedure*, 26 HOW. L.J. 902, 903-12 (1983) (discussing standards of waiver and voluntariness used by Supreme Court in evaluating consent searches); Comment, *Consent Search: Waiver of Fourth Amendment Rights*, 12 ST. LOUIS U.L.J. 297, 298-99 (1968) (discussing consent as waiver).

26. *See Schneckloth*, 412 U.S. at 248-49 (fourth amendment requires state to prove voluntariness of consent); *see also* Washington v. Chrisman, 455 U.S. 1, 9 (1982) (valid consent found in this case because defendant was informed that his consent must be voluntarily given); Bumper v. North Carolina, 391 U.S. 543, 548 (1968) (state must prove consent given voluntarily). *See generally* W. RINGEL, SEARCHES & SEIZURES, ARRESTS AND CONFESSIONS § 237 (1972) (discussing requirement that state prove consent freely given); 1 C. TORCIA, WHARTON'S CRIMINAL PROCEDURE § 172, at 740-53 (13th ed. 1989) (discussing requirement of voluntary or genuine consent).

27. *See, e.g., Johnson*, 333 U.S. at 13 (consent given in submission to authority not a waiver of constitutional right); *Amos*, 255 U.S. at 317 (coerced consent ineffective); Gouled v. United States, 255 U.S. 298, 305 (1921) (gain of consent by stealth violates constitutional rights). *See generally* Leowy, *The Fourth Amendment as a Device for Protecting the Innocent*, 81 MICH. L. REV. 1229, 1259-63 (1983) (discussing inherent perceived coercion in police request to search).

28. *See* United States v. Mendenhall, 446 U.S. 544, 557 (1980) (determination of voluntary consent based on all circumstances surrounding search); Schneckloth v. Bustamonte, 412 U.S. 218, 227 (1973) (duress or coercion evaluated in light of all circumstances); *see also* Coolidge v. New Hampshire, 403 U.S. 443, 487 (1971) (court must look at all circumstances in determining whether defendant's wife acted as police agent in producing items of search). *See generally* J. HALL, SEARCH AND SEIZURE § 4:7 (1982) (discussing standard of review for determining voluntariness of consent).

ensured because consent searches are subject to "careful scrutiny"[29] and are limited to the area of consent.[30]

Consent to a search may even be granted by a third party against whom the search is not directed.[31] The Supreme Court of the United States has predicated the validity of third party consent searches on the actual authority of the consenting party over the subject matter of the search.[32] A majority of lower courts faced with the question have upheld searches where there was a reasonable reliance by officials on a third party's consent to the search.[33] Not until *Illinois v. Rodriguez*, however, has the Supreme Court

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29. *Schneckloth*, 412 U.S. at 229; *cf.* Katz v. United States, 389 U.S. 347, 357 (1967) (exceptions to warrant requirement are few); Jones v. United States, 357 U.S. 493, 499 (1958) (warrant requirement exceptions "jealously and carefully drawn"). *See generally* MODEL RULES FOR LAW ENFORCEMENT: WARRANTLESS SEARCHES OF PERSONS AND PLACES, Rule 701 commentary at 49 (1974) (discussing disfavor of consent searches by many courts).

30. *See, e.g.*, Walter v. United States, 447 U.S. 649, 656 (1980) (search limited in scope to "terms of its authorization"); Lo-Ji Sales v. New York, 442 U.S. 319, 329 (1979) (retail store's consent to entry of public did not constitute consent to wholesale search); Lewis v. United States, 385 U.S. 206, 211 (1966) (invitation to enter did not constitute consent to general search). *See generally* J. HALL, SEARCH AND SEIZURE §§ 4:23-4:25 (1982) (discussing scope of consent searches); 3 W. LAFAVE, SEARCH AND SEIZURE: A TREATISE ON THE FOURTH AMENDMENT § 8.1(c), at 160-64 (2d ed. 1987) (discussing boundaries of area to be searched when search based on consent).

31. *See, e.g.*, United States v. Matlock, 415 U.S. 164, 170 (1974) (consent given concerning shared premises binding on all sharing the property); *Coolidge*, 403 U.S. at 487 (valid consent when wife gave husband's guns and clothing to police); Frazier v. Cupp, 394 U.S. 731, 740 (1969) (valid consent by party with joint access to duffel bag). *See generally* 3 W. LAFAVE, SEARCH AND SEIZURE: A TREATISE ON THE FOURTH AMENDMENT § 8.3(a), at 236-42 (2d ed. 1987) (discussion of third party consent); 4 C. TORCIA, WHARTON'S CRIMINAL EVIDENCE § 731 (13th ed. 1973) (discussing situations where third-party consent applies).

32. *See Matlock*, 415 U.S. at 171 (consent valid when obtained from party with common authority over searched area); *see also* Stoner v. California, 376 U.S. 483, 487-88 (1964) (hotel clerk without authority to consent to search of guest's room); Chapman v. United States, 365 U.S. 610, 616-17 (1961) (holding search gained by consent of landlord invalid). *See generally* Weinreb, *Generalities of the Fourth Amendment*, 42 U. CHI. L. REV. 47, 58-69 (1974) (discussion of effect of non-standard living arrangements on actual authority).

33. *See, e.g.*, United States v. Hamilton, 792 F.2d 837, 842 (9th Cir. 1986) (reasonable reliance by FBI agents on third party consent held valid); United States v. Sells, 496 F.2d 912, 914 (7th Cir. 1974) (basing validity of search on reasonable belief); Nix v. State, 621 P.2d 1347, 1349 (Alaska 1981) (search upheld because of reasonable reliance on apparent authority); Spears v. State, 605 S.W.2d 9, 10-11 (Ark. 1980) (finding search proper where person with apparent control of premises gave consent). *But see* State v. Carsey, 664 P.2d 1085, 1094 (Or. 1983) (search cannot rest on good faith of police in consent of third party). *See generally* Comment, *The Unsettled Law of Third Party Consent*, 11 J. MARSHALL J. PRAC. PROC. 115, 124-34 (1977) (discussion of California case law recognizing reasonable belief in third party consent); Comment, *The Good Faith Exception to the Exclusionary Rule - Adoption by Williams and Richmond*, 51 U. CIN. L. REV. 83, 88-89 (1982) (discussion of New York case allowing exigent circumstances and reasonable police belief in third party consent to validate search).

dealt with this issue.[34]

In *Rodriguez*, the Court, with Justice Scalia writing for the majority, held that even where a third party does not have actual authority to consent to a search, a reasonable belief by police in the party's apparent common authority over the premises can validate a warrantless consent search.[35] This holding does not require that police officials be correct in their judgment, only that they be reasonable in their actions.[36] To support its reasoning, the majority relied on previous opinions in which police judgment was not required to be factually correct.[37] The Court rejected the argument that such a holding allows for vicarious waiver of a defendant's fourth amendment privacy rights.[38] The Court reasoned that the fourth amendment does not guarantee the right to be free from searches, only from unreasonable searches.[39] The Court emphasized that an objective standard of reasonableness must be used in evaluating the validity of a consent search.[40] The majority also pointed out that its holding does not always provide justification for officers to accept an invitation to enter a premises.[41] The Court reversed and remanded the case back to the Illinois appellate court to determine whether the police officers' belief in Fischer's authority to consent was reasonable.[42]

The dissent, written by Justice Marshall, criticized the majority for relying on the misconception that third party consent searches are usually reason-

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34. *Matlock*, 415 U.S. at 177 n.14 (reserving the issue). In *Matlock*, the government contended that only a reasonable belief by police officers in the consenting party's authority over the premises searched was required to validate the search. *Id.* However, the Court did not reach this issue because they found that the third party had voluntarily consented and had legally sufficient authority to do so. *Id.* at 177.

35. Illinois v. Rodriguez, 497 U.S. __, __, 110 S. Ct. 2793, 2800, 111 L. Ed. 2d 148, 160 (1990). Justice Scalia was joined by Chief Justice Rehnquist and Justices White, Blackmun, O'Connor and Kennedy. *Id.* at __, 110 S. Ct. at 2796, 111 L. Ed. 2d at 155.

36. *Id.* at __, 110 S. Ct. at 2800, 111 L. Ed. 2d at 159.

37. *Id.* at __, 110 S. Ct. at 2799-800, 111 L. Ed. 2d at 159. One of the cases the Court relied on involved a search conducted pursuant to a search warrant which improperly described the premises to be inspected. *Id.* at __, 110 S. Ct. at 2799, 111 L. Ed. 2d at 159 (citing Maryland v. Garrison, 480 U.S. 79, 88 (1987)). The other case the Court relied on involved a search incident to an arrest where the wrong person was mistakenly arrested. *Rodriguez*, 497 U.S. at __, 110 S. Ct. at 2799-800, 111 L. Ed. 2d at 159 (citing Hill v. California, 401 U.S. 797, 803-04 (1971)). The majority indicated that it was unnecessary to discuss other examples. *Rodriguez*, 497 U.S. at __, 110 S. Ct. at 2800, 111 L. Ed. 2d at 159.

38. *Rodriguez*, 497 U.S. at __, 110 S. Ct. at 2798, 111 L. Ed. 2d at 157.

39. *Id.* at __, 110 S. Ct. at 2799, 111 L. Ed. 2d at 158. The majority stated that one of the many things which can make a search reasonable is the consent of a cotenant. *Id.*

40. *Id.* at __, 110 S. Ct. at 2801, 111 L. Ed. 2d at 161. The majority observed that the test is whether a reasonable man would believe that the third party had authority to consent to the search. *Id.*

41. *Id.* The majority explained that circumstances surrounding the consent could cause an officer to doubt the validity of the consent. *Id.*

42. *Id.* at __, 110 S. Ct. at 2801-02, 111 L. Ed. 2d at 161.

able.[43] Justice Marshall argued that third party consent searches are not presumptively valid because warrantless searches are per se unreasonable if they do not fall within an exception to the warrant requirement.[44] He reasoned that unlike other exceptions which rely upon some exigency, there is no compelling social policy which supports an exception for third party consent searches.[45] The dissent argued that police officials must bear the risk that a search may be declared unreasonable when the consenting party has no right to agree to the search.[46] In placing this risk on the authorities, the dissent attempted to balance the minimal police interest of convenience against the weighty fourth amendment interest in preventing unauthorized intrusions into the home.[47]

Justice Marshall further stated that where a third party consent search is not grounded on the actual authority of the consenting party, it cannot be valid because there has been no relinquishment of a reasonable expectation of privacy by the one against whom the search is directed.[48] He noted that in prior cases discussing third party consent searches, the person being subjected to the search had voluntarily given a third party some control over his property and, therefore, had relinquished some expectation of privacy.[49] Justice Marshall concluded that Rodriguez could challenge the search as a violation of his fourth amendment rights because he had not given up any expectation of privacy, whether or not the police reasonably believed he had.[50]

In *Rodriguez*, the majority properly recognizes that searches must be rea-

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43. *Id.* at __, 110 S. Ct. at 2805, 111 L. Ed. 2d at 166 (Marshall, J., dissenting). Justice Marshall was joined by Justices Brennan and Stevens. *Id.* at __, 110 S. Ct. at 2802, 111 L. Ed. 2d at 155. Justice Marshall indicated that the cases relied on by the majority do not support an inference of reasonableness in third party consent searches. *Id.* at __, 110 S. Ct. at 2805, 111 L. Ed. 2d at 166 (Marshall, J., dissenting). Justice Marshall argued that those cases involved probable cause which has a built-in possibility of factual error. *Id.*

44. *Id.* at __, 110 S. Ct. at 2803, 111 L. Ed. 2d at 163-64 (Marshall, J., dissenting).

45. *Id.* at __, 110 S. Ct. at 2804, 111 L. Ed. 2d at 164 (Marshall, J., dissenting). The dissent pointed out that the social policies furthered by searches based on an exigency are the protection of police and the community. *Id.* at __, 110 S. Ct. at 2803, 111 L. Ed. 2d at 163.

46. *Id.* at __, 110 S. Ct. at 2804, 111 L. Ed. 2d at 164 (Marshall, J., dissenting). Justice Marshall noted that police officers have the choice of either obtaining a warrant or relying on potentially invalid third party consent. *Id.*

47. *Id.* at __, 110 S. Ct. at 2803-04, 111 L. Ed. 2d at 164 (Marshall, J., dissenting). The dissent argued that the constitutional interest in deterring unlawful home intrusions outweighs any police interest in relying on potentially erroneous third party consent. *Id.*

48. *Id.* at __, 110 S. Ct. at 2804, 111 L. Ed. 2d at 165 (Marshall, J., dissenting).

49. *Id.* at __, 110 S. Ct. at 2806, 111 L. Ed. 2d at 167 (Marshall, J., dissenting). Justice Marshall reasoned that a limitation on expected privacy which stems from joint access over property does not justify "trampling the rights" of one who has not limited his expectation of privacy. *Id.*

50. *Id.* at __, 110 S. Ct. at 2804, 111 L. Ed. 2d at 165 (Marshall, J., dissenting).

sonable,[51] but fails to adequately address the requirement that consent to a search be voluntarily given.[52] In prior third party consent search cases, the consent was given by someone with actual authority over the area searched.[53] The consent of the party being searched was held to be freely given because he had voluntarily relinquished some control over the area to a third party.[54] However, in *Rodriguez*, there was no showing that the defendant had voluntarily relinquished any control of the area to the consenting party.[55] The state, therefore, did not meet its burden of proof as to the validity of the search because it did not show that consent to the search was given voluntarily.[56]

The *Rodriguez* majority also fails to address the ease with which a warrant could have been obtained.[57] Although acquisition of a warrant is not a fac-

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51. *Id.* at __, 110 S. Ct. at 2799, 111 L. Ed. 2d at 158.

52. *See* Schneckloth v. Bustamonte, 412 U.S. 218, 248 (1973) (holding that state must show consent was given voluntarily); Bumper v. North Carolina, 391 U.S. 543, 548 (1968) (prosecutor relying on consent must show it was freely granted); *see also* United States v. Mendenhall, 446 U.S. 554, 559-60 (1980) (finding free and voluntary consent because of defendant's actions). *See generally* Mintz, *Search of Premises by Consent*, 73 DICK. L. REV. 44, 68-74 (1968) (discussing factors considered in determining voluntariness of consent).

53. *See, e.g.*, United States v. Matlock, 415 U.S. 164, 171 n.7 (1974) (co-inhabitant can consent to search "in his own right"); Coolidge v. New Hampshire, 403 U.S. 443, 487 (1971) (wife had actual authority to hand over husband's possessions to officers); Frazier v. Cupp, 394 U.S. 731, 740 (1969) (joint user of duffel bag had actual authority to consent to search). *See generally* Matthews, *Third-Party Consent Searches: Some Necessary Safeguards*, 10 VAL. U.L. REV. 29, 37-42 (1975) (proposing need for rule whereby party against whom search is directed must expressly consent); Note, *A Reconsideration of the Katz Expectation of Privacy Test*, 76 MICH. L. REV. 154, 164-68 (1977) (discussing knowing and voluntary consent requirement in third party consent situations).

54. *See Matlock*, 415 U.S. at 171 n.7 (authority to consent is based on "joint access or control"); *see also Frazier*, 394 U.S. at 740 (joint control of duffel bag validating third party consent search); Katz v. United States, 389 U.S. 347, 351 (1967) (what one publicly exposes not protected by fourth amendment). *See generally* Dutile, *Some Observations on the Supreme Court's Use of Property Concepts in Resolving Fourth Amendment Problems*, 21 CATH. U.L. REV. 1, 14-17 (1971) (discussing value of property and agency concepts in third party consent cases); Wefing & Miles, *Consent Searches and the Fourth Amendment: Voluntariness and Third Party Problems*, 5 SETON HALL L. REV. 211, 261-66 (1974) (discussing limitation of consent to area over which one has possession and control).

55. *See* Illinois v. Rodriguez, 497 U.S. __, __, 110 S. Ct. 2793, 2798, 111 L. Ed. 2d 148, 157 (1990) (approving lower court's determination that Fischer had no common authority over defendant's apartment).

56. *See* United States v. Mendenhall, 446 U.S. 544, 557 (1980) (government has burden of proving voluntary consent); Schneckloth v. Bustamonte, 412 U.S. 218, 222 (1973) (prosecutor must prove voluntariness of consent); *Bumper*, 391 U.S. at 548 (to justify consent search prosecutor must prove voluntary consent). *See generally* 3 W. LAFAVE, SEARCH AND SEIZURE: A TREATISE ON THE FOURTH AMENDMENT § 8.1(b), at 156 (2d ed. 1987) (discussing voluntariness of consent as opposed to reasonable belief by police officials).

57. *See Rodriguez*, 497 U.S. at __, 110 S. Ct. at 2804, 111 L. Ed. 2d at 164 (Marshall, J.,

tor in cases resting on recognized warrant requirement exceptions, the Court has often evaluated the convenience of procuring a warrant in cases where no established warrant requirement exception directly applies.[58] Established exceptions to the warrant requirement include searches involving emergencies, possible destruction of evidence, or the consent of a party with proper authority.[59] Because none of these circumstances existed in *Rodriguez*,[60] the majority gave great weight to police interests in convenience by ignoring the

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dissenting) (warrant process must be observed where, as here, nothing prevented acquisition of warrant).

58. *See, e.g.*, Walter v. United States, 447 U.S. 649, 657 (1980) (search warrant was easily obtainable); Mincey v. Arizona, 437 U.S. 385, 394 (1978) (no indication that authorities could not have easily obtained search warrant); McDonald v. United States, 335 U.S. 451, 454-55 (1948) (no reason for failure to obtain warrant); Trupiano v. United States, 334 U.S. 699, 708 (1948) (whenever reasonably practical, authorities must obtain search warrant); Taylor v. United States, 286 U.S. 1, 6 (1932) (police actions held unreasonable where no effort to obtain warrant despite abundant opportunity); Go-Bart Importing Co. v. United States, 282 U.S. 344, 358 (1931) (information and time necessary to secure warrant existed, but no warrant obtained). *See generally* Bloom, *The Supreme Court and Its Purported Preference for Search Warrants*, 50 TENN. L. REV. 231, 259-62 (1983) (discussing Court's preference of warrant and exceptions to fourth amendment's warrant requirement); Weinreb, *Generalities of the Fourth Amendment*, 42 U. CHI. L. REV. 47, 57-58 (1974) (discussing burden on police to show warrant was not obtainable).

59. *See, e.g.*, United States v. Matlock, 415 U.S. 164, 171 (1974) (warrantless search valid when consent obtained from third party with common authority over area searched); Schmerber v. California, 384 U.S. 757, 770-71 (1966) (no fourth amendment violation where search conducted based on reasonable police belief that emergency existed); United States v. Jeffers, 342 U.S. 48, 52 (1951) (evidence seized without warrant suppressed where no showing of imminent destruction of evidence); *see also* Katz v. United States, 389 U.S. 347, 357 (1967) (warrant requirement exceptions are "few," "specifically established" and "well delineated"). *See generally* Bacigal, *The Emergency Exception to the Fourth Amendment*, 9 U. RICH. L. REV. 249, 251 (1975) (discussing emergency exception); Note, *Search and Seizure - The Destruction or Removal of Evidence Exception to the Warrant Requirement Adopted in Missouri*, 41 MO. L. REV. 291, 292 (1976) (discussing possible destruction/removal of evidence warrant requirement exception).

60. *See* Illinois v. Rodriguez, 497 U.S. ___, ___, 110 S. Ct. 2793, 2803-05, 111 L. Ed. 2d 148, 163-65 (1990)(Marshall, J., dissenting) (discussing difference between third party apparent authority consent exception and established warrant requirement exceptions based on exigencies or actual authority consent). Justice Marshall pointed out that searches based on an exigency serve social goals of community and police safety. *Id.* at ___, 110 S. Ct. at 2803, 111 L. Ed. 2d at 163. He stated that third party consent searches serve no "compelling social goal." *Id.* at ___, 110 S. Ct. at 2804, 111 L. Ed. 2d at 164. Justice Marshall further pointed out that a search based on good faith in a third party's consent where no actual authority exists is completely different from the established third party consent exception because in the former there has been no relinquishment of any expectation of privacy. *Id.* at ___, 110 S. Ct. at 2804, 111 L. Ed. 2d at 165. *But see id.* at ___, 110 S. Ct. at 2800, 111 L. Ed. 2d at 160 (majority finding no difference between entry based on erroneous belief in third party consent and entry made in hot pursuit).

ease with which a warrant could have been obtained.[61]

In expanding the warrant requirement's consent exception to include reasonable police reliance on a consenting third party's authority, the Court improperly focused on a police view of the reasonableness of a search.[62] Although the Court recognized that society has an interest in maintaining law and order,[63] it did not give proper weight to individual privacy rights in evaluating the search's reasonableness.[64] Furthermore, by giving greater

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61. *See Rodriguez*, 497 U.S. at __, 110 S. Ct. at 2803, 111 L. Ed. 2d at 164 (Marshall, J., dissenting) (only police interest involved was convenience); *cf.* United States v. Place, 462 U.S. 696, 704 (1983) (police interest must be "substantial"); Coolidge v. New Hampshire, 403 U.S. 443, 481 (1971) (inconvenience of fourth amendment warrant requirement not to be weighed against police efficiency). *See generally* Wasserstrom & Seidman, *The Fourth Amendment as Constitutional Theory*, 77 GEO. L.J. 19, 44-45 (1988) (discussing balancing of competing police interests and privacy rights); Comment, *The United States Supreme Court's Erosion of Fourth Amendment Rights: The Trend Continues*, 30 S.D.L. REV. 574, 586 (1985) (discussing deference court has given to public officials).

62. *Compare* Illinois v. Rodriguez, 497 U.S. __, __, 110 S. Ct. 2793, 2799, 111 L. Ed. 2d 148, 158 (1990) (defining reasonableness as not requiring police to be factually accurate) *with id.* at __, 110 S. Ct. at 2805, 111 L. Ed. 2d at 166 (Marshall, J., dissenting) (arguing that reasonable factual police errors do not make unreasonable searches valid). Justice Marshall contended that the reasonableness of an erroneous police belief in a third party's authority to consent to a search is irrelevant. *Id.* The dissent acknowledged the need for effective law enforcement, yet argued that in balancing this police interest against fourth amendment rights, the constitutional interest is overriding. *Id.* at __, 110 S. Ct. at 2803, 111 L. Ed. at 164. *See Place*, 462 U.S. at 704-05 (balancing police interest against intrusion on fourth amendment rights); Arkansas v. Sanders, 442 U.S. 753, 759 (1979) (listing exceptions to warrant requirement where societal interests outweigh reasons for warrant requirement); Schneckloth v. Bustamonte, 412 U.S. 218, 225 (1973) (balancing need for effective law enforcement against societal interest in fairness). *See generally* Greenberg, *The Balance of Interests Theory and the Fourth Amendment: A Selective Analysis of Supreme Court Action Since* Camara *and* See, 61 CALIF. L. REV. 1011, 1011-12, 1016 (1973) (discussing balancing of interests in situations where no exigent circumstances exist); Wasserstrom & Seidman, *The Fourth Amendment as Constitutional Theory*, 77 GEO. L.J. 19, 44-50 (1988) (discussing balancing of police and individual interests).

63. *See Rodriguez*, 497 U.S. at __, 110 S. Ct. at 2799, 111 L. Ed. 2d at 158 (discussing costs of living in safe society); *see also* Standefer v. United States, 447 U.S. 10, 25 (1980) (criminal court's purpose is to justify societal interest in law enforcement) (quoting United States v. Standefer, 610 F.2d 1076, 1093 (3d Cir. 1979)); United States v. Mendenhall, 446 U.S. 544, 565 (1980) (fourth amendment law requires observance of societal interest in law enforcement); Scheuer v. Rhodes, 416 U.S. 232, 241 (1974) (public policy necessitates enforcement of laws protecting public). *See generally* Bandes, *Taking Some Rights Too Seriously: The State's Right to a Fair Trial*, 60 S. CAL. L. REV. 1019, 1047-48 (1987) (discussing balance between society's law enforcement interest and individual rights); Note, *Addressing the Pretext Problem: The Role of Subjective Police Motivation in Establishing Fourth Amendment Violations*, 63 B.U.L. REV. 223, 270-72 (1983) (discussing factors relevant to societal interest in making arrests and preventing crime).

64. *See* U.S. CONST. amend. IV.; *see also* United States v. Kennedy, 5 F.R.D. 310, 313 (D. Colo. 1946) (changing law enforcement demands cannot dictate fourth amendment construction); Barker v. State, 241 So. 2d 355, 358 (Miss. 1970) (provisions of fourth amendment

deference to the judgment of the authorities conducting the search, the majority broke with the fourth amendment's historical purpose of restricting intrusive police activities.[65] In doing so, the Court overlooked the established view that the fourth amendment is intended to protect the rights of citizens and not government authorities.[66]

The majority's focus on police reasonableness also carves out a new good faith exception to the exclusionary rule without taking into account the historical reasoning behind good faith exceptions.[67] In previous cases, the Supreme Court allowed improper searches conducted by officers acting in good faith to avoid the operation of the exclusionary rule because the officer's good faith was founded on judicial or legislative action.[68] The Court

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are to be strictly construed in favor of citizens and against state). *See generally* Amsterdam, *Perspectives on the Fourth Amendment*, 58 MINN. L. REV. 349, 367-69 (1974) (discussing proper focus of fourth amendment protection); Comment, *The United States Supreme Court's Erosion of Fourth Amendment Rights: The Trend Continues*, 30 S.D.L. REV. 574, 583-86 (1985) (discussing deference given public officials at expense of individual freedom).

65. *See, e.g.*, Berger v. New York, 388 U.S. 41, 62-63 (1967) (privacy of American homes dictates that fourth amendment requirements cannot be forgiven for law enforcement purposes); Camara v. Municipal Court, 387 U.S. 523, 528 (1967) (purpose of fourth amendment to safeguard individual privacy against arbitrary government invasions); Jones v. United States, 357 U.S. 493, 498 (1958) (purpose of fourth amendment to shield citizens against unwarranted invasions of privacy). *See generally* Ashdown, *The Fourth Amendment and the "Legitimate Expectation of Privacy"*, 34 VAND. L. REV. 1289, 1289-95 (1981) (discussing law enforcement interests yielding to private interests); DiPippa, *Is the Fourth Amendment Obsolete? - Restating the Fourth Amendment in Functional Terms*, 22 GONZ. L. REV. 483, 503-14 (1987/88) (historical discussion of amendment's intent to restrict power of general warrants).

66. *See, e.g.*, McDonald v. United States, 335 U.S. 451, 455-56 (1948) (privacy right too precious to entrust to police discretion); Trupiano v. United States, 334 U.S. 699, 707 (1948) (authors of fourth amendment deemed good sense of police officers insufficient to justify search unless exceptional circumstances exist); Johnson v. United States, 333 U.S. 10, 17 (1948) (allowing privacy intrusion without some valid basis obliterates distinction between our government and police-state). *See generally* N. LASSON, THE HISTORY AND DEVELOPMENT OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION 51-78 (1937) (discussing historical development of fourth amendment in response to overbroad police power granted by general warrants); Note, *Addressing the Pretext Problem: The Role of Subjective Police Motivation in Establishing Fourth Amendment Violations*, 63 B.U.L. REV. 223, 232-34 (1983) (discussing need for reduced police effectiveness to preserve constitutional rights).

67. *See, e.g.*, United States v. Janis, 428 U.S. 433, 454 (1976) (finding no justification for applying exclusionary rule where police acted reasonably and pursuant to warrant); United States v. Peltier, 422 U.S. 531, 542 (1975) (evidence should only be excluded if officer had or should have had knowledge of unconstitutionality of search); United States v. Calandra, 414 U.S. 338, 348 (1974) (exclusionary rule restricted to situations where remedial purpose of rule is served). *See generally* J. HIRSCHEL, FOURTH AMENDMENT RIGHTS 83-91 (1979) (discussing role of exclusionary rule in protecting fourth amendment rights).

68. *See, e.g.*, Massachusetts v. Sheppard, 468 U.S. 981, 989 (1984) (evidence not excluded where officer reasonably relied on warrant issued by magistrate); Illinois v. Krull, 480 U.S. 349, 359 (1986) (evidence not excluded where reasonable reliance on legislative enactment); *see also* Michigan v. DeFillippo, 443 U.S. 31, 40 (1979) (evidence admitted where police reliance

reasoned that the actions of magistrates and legislators would not be affected in such a case by the exclusion of evidence.[69] A new exclusionary rule exception for an officer's reasonable belief in third party consent will allow officers to rely on their concept of good faith where previously the good faith of officers had to rest on some higher authority.[70] The Court now puts the consent of a third party on the same level as a statute or warrant because a police officer's reasonable good faith reliance on any of these is effective to prevent the operation of the exclusionary rule.[71]

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on city ordinance gave rise to probable cause). *See generally* Miller, *The Good Faith Exception to the Exclusionary Rule:* Leon *and* Sheppard *in Context*, 7 CRIM. JUST. J. 181, 199-200 (1984) (discussing maintenance of fairness when search based on good faith in warrant); Comment, *Blessed are the Faithful: An Analysis of the Scope and Applicability of the Good Faith Exception to the Exclusionary Rule*, 15 U. BALT. L. REV. 498, 510 (1986) (discussing applicability of good faith exception where warrant involved).

69. *See* United States v. Leon, 468 U.S. 897, 921 (1984) (exclusionary rule deterrence not promoted by punishing officer for magistrate's error); *see also Janis*, 428 U.S. at 454 (use of exclusionary rule improper when no deterrent effect); Michigan v. Tucker, 417 U.S. 433, 447 (1974) (where official action pursued in good faith, deterrence rationale behind exclusionary rule loses force). *See generally* Ingber, *Defending the Citadel: The Dangerous Attack of "Reasonable Good Faith,"* 36 VAND. L. REV. 1511, 1542-52 (1983) (discussion of good faith and its effect on deterrence); Note, Illinois v. Krull: *Extending the Fourth Amendment Exclusionary Rule's Good Faith Exception to Warrantless Searches Authorized by Statute*, 66 N.C.L. REV. 781, 796-800 (1988) (discussing exclusionary rule's lack of deterrent effect on legislators).

70. *See* Illinois v. Krull, 480 U.S. 340, 358-60 (1987) (discussing differences between legislation and judgment of police officer); United States v. Whiting, 781 F.2d 692, 698 (9th Cir. 1986) (good faith exception should not apply to invalid warrantless searches); People v. Madison, 520 N.E.2d 374, 380 (Ill. 1988), *cert. denied*, __ U.S. __, 109 S. Ct. 257, 102 L. Ed. 2d 246 (1988) (good faith exception inapplicable because police did not rely on warrant or statute). *See generally* LaFave, *"The Seductive Call of Expediency":* United States v. Leon, *Its Rationale and Ramifications*, 1984 U. ILL. L. REV. 895, 912-15 (1984) (proposing that even when objective view of good faith used, search may still be based on officer's improper discretion); Note, *The Independent Source Exception to the Exclusionary Rule: The Burger Court's Attempted Common-Sense Approach and Resulting "Cure-All" to Fourth Amendment Violations*, 28 HOW. L.J. 1005, 1040-48 (1985) (criticizing situations where individual privacy is at mercy of police discretion).

71. *Compare* Illinois v. Rodriguez, 497 U.S. __, __, 110 S. Ct 2793, 2800, 111 L. Ed. 2d 148, 160 (1990) (holding search valid when officers reasonably believe party consenting is resident of premises searched) *with* United States v. Leon, 468 U.S. 897, 919-20 (1984) (allowing admission of evidence where search conducted pursuant to officers' reasonable belief in validity of defective warrant) *and Krull*, 480 U.S. at 360 (allowing admission of evidence where search conducted pursuant to officers' reasonable belief in validity of unconstitutional statute); *cf.* Marshall v. Barlow's, Inc., 436 U.S. 307, 323 (1978) (authority to make search without warrant gives officers unbridled discretion in search). *See generally* Ashdown, *Good Faith, the Exclusionary Remedy, and Rule-Oriented Adjudication in the Criminal Process*, 24 WM. & MARY L. REV. 335, 343-45 (1983) (discussing relative ease in determining police good faith based on a statute compared to difficulties in determining good faith based on operative facts); Kaplan, *The Limits of the Exclusionary Rule*, 26 STAN. L. REV. 1027, 1044-45 (1974) (admitting evidence based on police inadvertence puts premium on police ignorance).

By allowing police to justify searches pursuant to a reasonable belief in a consenting party's authority, the *Rodriguez* majority has expanded the consent exception to the warrant requirement and created a new good faith exception to the exclusionary rule. These modifications to fourth amendment jurisprudence give police officers greater latitude in conducting warrantless searches. By giving police more discretion, the court has placed a premium on police ignorance. The less police know about the authority of the consenting party, the more likely their belief will be considered reasonable, and the more likely their search will be held valid. In addition, the Court overlooks the intent of the fourth amendment's authors to restrict the government's power to impinge upon the citizens' right of privacy. In so doing, the Court has significantly diminished the fourth amendment's power to protect individual privacy.

S. Jeffrey Gately