

FOURTH AMENDMENT--SEARCH AND SEIZURE--OVERNIGHT GUEST HAS LEGITIMATE EXPECTATION OF PRIVACY AND STANDING TO CLAIM PROTECTIONS OF THE FOURTH AMENDMENT--*Minnesota v. Olson*, 110 S. Ct. 1684 (1990).

An individual's ability to assert his fourth amendment rights, protecting against unreasonable searches and seizures, depends upon whether that person has demonstrated a legitimate expectation of privacy in the place that has been invaded. *Minnesota v. Olson*, 110 S. Ct. 1684, 1687 (1990) (quoting *Rakas v. Illinois*, 439 U.S. 128, 143 (1978)). An expectation of privacy is deemed legitimate, however, only if it is "one [that] society is prepared to recognize as 'reasonable.'" *Id.* (quoting *Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring)). Recently, the United States Supreme Court revisited the issue of when a reasonable expectation of privacy exists. In *Olson*, the Court held that an overnight guest possesses a reasonable expectation of privacy within a host's home, and, therefore, he has standing to challenge a warrantless arrest. *Id.* at 1688.

On July 18, 1987, two men robbed a gasoline station and fatally shot the station's manager. *Id.* at 1686. The gunman was captured shortly thereafter, but the driver of the getaway car escaped. *Id.* After locating and searching the abandoned vehicle, the police produced several pieces of evidence implicating Robert Olson as the driver. *Id.* The next morning, the police received a call from an informant, Dianna Murphy, who named Robert Olson as the driver of the vehicle, and gave the police the address where he could be found. *Id.* Police officers investigated the call and determined that Olson had been staying in the upstairs unit of a duplex, but was not presently at home. *Id.* Helen Niederhoffer, who resided in the lower unit of the duplex, agreed to call the police upon his return. *Id.*

Later that afternoon, a "probable cause arrest bulletin" was issued for Olson. *Id.* Subsequently, police received a call that Olson had returned to the duplex. *Id.* After an unsuccessful attempt to persuade Olson to surrender himself, the police entered the dwelling without a warrant or permission and apprehended Olson. *Id.* at 1687. While at police headquarters, Olson made incriminating statements. *Id.*

The Hennepin County trial court denied Olson's motion to suppress the inculpatory statement and convicted him on three counts of armed robbery, three counts of second degree assault and one count of first degree murder. *Id.* On appeal, the Minnesota Supreme Court reversed, ruling that Olson "had a sufficient interest in the [place where he was staying] to challenge the legality of his warrantless arrest" *Id.* The

court found that the arrest violated the fourth amendment, reasoning that no exigent circumstances existed to justify the warrantless entry. *Id.* Accordingly, the court held that Olson's statement was tainted and should have been suppressed. *Id.* The United States Supreme Court granted the state's petition for certiorari. *Id.*

Justice White, writing for the majority, began his analysis by advancing two fundamental fourth amendment principles. *Id.* One, an individual may not be arrested in his home unless a magistrate has issued an arrest warrant based upon probable cause. *Id.* (citing *Payton v. New York*, 445 U.S. 573 (1980)). Two, an individual has standing to assert a claim of unreasonable search and seizure if that individual's subjective expectation of privacy is one that society is willing to recognize as reasonable. *Id.* (quoting *Rakas v. United States*, 389 U.S. 347, 361 (1978) (quoting *Katz v. United States*, 389 U.S. 347, 361 (1967))).

The State of Illinois advocated that only if an individual is arrested in his *own* home can he assert a fourth amendment violation. *Id.* at 1687-88 (emphasis added). Alternatively, the state contended that a guest could only maintain a legitimate expectation of privacy if he had the ability to exclude or admit others from the host's residence. *Id.* at 1689. The Court rejected both these arguments. *Id.*

Justice White stated that overnight guests, such as Olson, may possess a legitimate expectation of privacy in another's home. *Id.* at 1688. The Justice then went on to recognize that Olson did have such an expectation. *Id.* at 1689. Justice White pointed out that staying overnight in another's home serves a valuable function and is a custom recognized by society. *Id.* The Justice explained that the reason people stay in another's dwelling when they can not stay in their own dwelling is precisely because they seek privacy and safety for themselves and their possessions. *Id.* Thus, the Court concluded that an overnight guest has a legitimate expectation of privacy in their host's dwelling. *Id.* at 1690. Notably, the Court ruled that the state's contention that the ability to exclude or admit others from or into the home was irrelevant in determining whether an overnight guest possesses a reasonable expectation of privacy. *Id.* at 1689. The Court stressed that a guest's legitimate expectation of privacy is not defeated or established because the owners have ultimate control of their home. *Id.* The Court emphasized that owners, "more likely than not," would respect the privacy of their guests, "who are entitled to a legitimate expectation of privacy despite the fact that they have no legal interest" or control of the household. *Id.*

Finally, the Court addressed the issue of whether any exigent circumstances justified the warrantless entry and arrest. *Id.* at 1690.

The Court agreed with the standard applied by the Minnesota Supreme Court. *Id.* The Minnesota Supreme Court acknowledged that exigent circumstances may be present when: 1) the police are in "hot pursuit of a fleeing felon"; 2) there is a threat of destruction of evidence; 3) the suspect is likely to escape; or, 4) there is a risk of harm to the police or others. *Id.* The Court concurred with the state supreme court's observation that when police are not in hot pursuit, they must have probable cause to believe that one of the other above-stated factors are present and, in addition, should consider the gravity of the crime to justify a warrantless entry. *Id.*

After Reviewing the Minnesota Supreme Court's application of the exigent circumstances standard, the Court concluded that no exigent circumstances existed to justify a warrantless entry into the home in which Olson was a guest. *Id.* In so concluding, the Court reasoned that the murderer had been apprehended and the murder weapon confiscated, and therefore, Olson posed no immediate danger to the police or threat of escape. *Id.* Affirming the Minnesota Supreme Court's decision, the Court held that Olson, as an overnight guest, had a reasonable expectation to privacy, and therefore, he had standing to challenge the legality of the warrantless arrest. *Id.* Furthermore, the absence of any exigent circumstances rendered the arrest violative of the fourth amendment. *Id.*

Chief Justice Rehnquist and Justice Blackmun dissented but filed no opinion. *Id.* (Rehnquist, C.J., and Blackmun, J., dissenting).

Justice Stevens concurred in the judgment, but noted that even if a defendant does not have standing to challenge his arrest based on federal law, the Supreme Court does not have the authority to prevent state courts from entertaining federal questions. *Id.* at 1690 (Stevens, J., concurring). Justice Stevens added that, where state courts have protected their citizens' constitutional rights, the Court should exercise its review powers of state court judgments sparingly. *Id.* at 1690-91 (Stevens, J., concurring).

Justice Kennedy also concurred. *Id.* at 1691 (Kennedy, J., concurring). The Justice viewed the Court's acceptance of the state's exigent circumstances test to have been an act of deference to the state court and not as an endorsement of the standard applied. *Id.*

By extending the privacy interest to an overnight guest, the Court has not only protected the interest of the guest to be free from unreasonable searches and seizures but has also secured the property interests of the owner from warrantless entries and searches by the government. Furthermore, the exigent circumstances exception to the warrant requirement creates a proper balance between the protections

of fourth amendment and society's interest in law enforcement. The Court's balancing of interests is enhanced by its application of the *Katz* test, which judges the legitimacy of an individual's expectation of privacy by contemporary societal standards. *Id.* at 1687. This ensures that the fourth amendment protections will evolve concomitant with societal changes. Therefore, a balance will always be struck between the state's interest in law enforcement and the public's interest in being free from unreasonable governmental intrusions.

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