



Warrantless Searches and Seizures (Criminal Law Series)

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THIS CASEBOOK contains a selection of 239 U. S. Court of Appeals decisions that analyze and discuss claims of warrantless searches and seizures alleged to be in violation of the Fourth Amendment. The selection of decisions spans from 2004 to the date of publication.

Under the Fourth Amendment, "a search conducted without a warrant issued upon probable cause is 'per se unreasonable. . . subject only to a few specifically established and well-delineated exceptions.'" *Schneckloth v. Bustamonte*, 412 U.S. 218, 219, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973) (quoting *Katz v. United States*, 389 U.S. 347, 357, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967)); *United States v. Borostowski*, 775 F.3d 851, 864, 2014 WL 7399074, *11 (7th Cir.2014). One of the exceptions to the warrant requirement is consent to search. *Schneckloth*, 412 U.S. at 219, 93 S.Ct. 2041 ("It is equally well settled that one of the specifically established exceptions to the requirements of both a warrant and probable cause is a search that is conducted pursuant to consent."); *Davis v. United States*, 328 U.S. 582, 593-94, 66 S.Ct. 1256, 90 L.Ed. 1453 (1946). *Vinson v. Vermilion County, Illinois*, 776 F. 3d 924 (7th Cir. 2015).

"[W]arrantless searches are generally unreasonable, and . . . this rule applies to commercial premises as well as homes." *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 312 (1978). See also *Burger*, 482 U.S. at 699. Business owners possess reasonable expectations of privacy in commercial property with respect to both traditional police searches as well as administrative inspections designed to enforce regulatory statutes. *Burger*, 482 U.S. at 699-700. However, the Supreme Court has recognized exceptions to the warrant requirement for pervasively regulated businesses such as those dealing in firearms, *United States v. Biswell*, 406 U.S. 311, 316 (1972), and for closely regulated industries long subject to close supervision and inspection, such as the liquor industry, *Colonnade Catering Corp. v. United States*, 397 U.S. 72, 74 (1970). The Court reasoned that certain industries have such a history of government oversight that no reasonable expectation of privacy could exist for a proprietor over the stock of a such a business. *Barlow's*, 436U.S. at 313. See also *Burger*, 482 U.S. at 700 (an expectation of privacy in commercial premises is different from, and less than, a similar expectation in an individual's home and is particularly attenuated in commercial properties employed in closely regulated industries). The business owner in a highly regulated or licensed industry in effect consents to the restrictions put in place by the government. *Barlow's*, 436 U.S. at 313. *US v. Hamad*, (7th Cir. 2016).

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