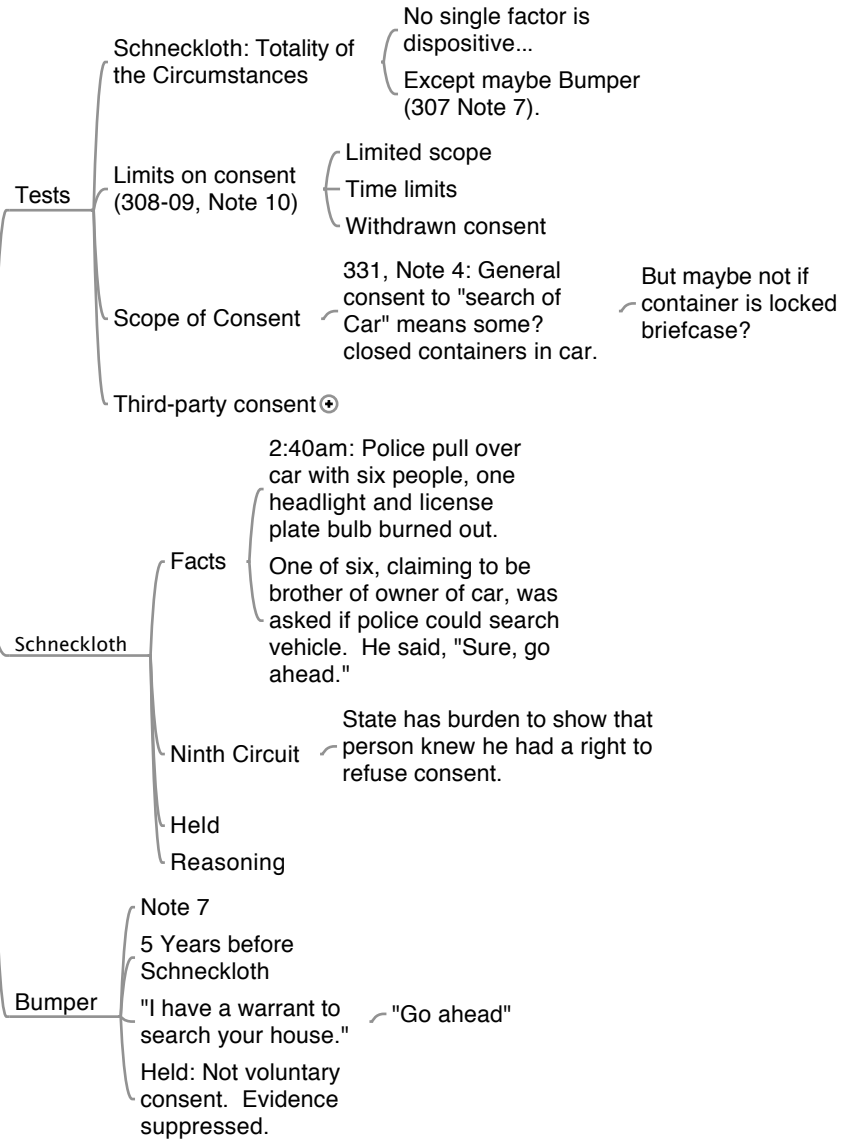


Class 12: Consent

Admin

Next Time: 338-55
Complete Syllabus at end of next week
News: Supreme Court grants cert in Automobile Search/Exclusionary Rule case. We will discuss in mid-March: Herring v. U.S.

Consent



Class 12: Consent

Third Party Consent

Matlock

Facts {
 D arrested in front yard of house; detained in squad car.
 Mrs. Graff "with baby on hip" consented to search of house.

Held: Valid consent search.

"The consent of one who possesses common authority over premises or effects is valid as against the **absent, nonconsenting person** with whom that authority is shared"

Reasoning: Assumption of Risk.

Randolph

Facts {
 Domestic dispute between separated, married couple: Wife calls police and reports that husband took son away.
 Police arrive, wife says that husband is a cocaine user (which husband denies).
 He "unequivocally" refuses to consent to search. She gives consent.
 A section of a drinking straw with cocaine residue found.

Held

Reasoning

Geoff Next Time

Rodriguez

Facts {
 Woman suffered severe beating, called police to her mother's home. Accused D.
 Consented to travel to apartment where D slept to unlock the door with "her key"
 She unlocked door, they entered without a warrant, arrested D and seized drugs and paraphernalia in plain view.

Lower courts {
 Suppressed evidence because she did not have common authority.

Held

Reasoning

Referred to it as "our apartment"
 From oral argument: Initially, police said she had said "I used to live there." Later, this became "our apartment"

Said she kept clothes/furniture there.
 Note 2: Shouldn't this have put them on notice to ask more questions?