New Development Regarding Search Warrants under the Fourth Amendment of the U.S. Constitution —*Jones, Jardines & Grady*

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Abstract

In regards to the requirement of a search warrant under the Fourth Amendment of the U.S. Constitution, a new rule was declared by the U.S. Supreme Court in *United States v. Jones* in 2012, authored by Justice Scalia. Jones did not adopt the prior position that the reasonable expectation of privacy test should replace the physical trespass doctrine. In *Jones*, the Court ruled that both tests—a reasonable expectation of privacy (a principle based on the right to privacy), and physical invasion of private property (a principle based on the protection of private property)—should apply in the examination of the requirement of a search warrant. This two-tier theory in Jones was restated by the Court in 2013 in *Florida v. Jardines* and reaffirmed in 2015 in *Grady v. North Carolina*. This article introduces the evolvement of Fourth Amendment tests in the U.S. and the above most recent standard the Court has adopted in reviewing searches by the government. The alteration of privacy tests may have reflected the Court's positions in resolving different types of disputes arising from the government's use of innovative technologies in conducting searches. The above development of the U.S. Fourth Amendment tests may provide guidance on approaches to develop our own laws relating to searches conducted by the government.

Key Words: the reasonable expectation of privacy protection test, the physical trespass doctrine, the right to privacy, the Fourth Amendment of the U.S. Constitution