



Teacher Guide & Lesson Plan

California v. Greenwood: **A Moot Court of a U.S. Supreme Court Case**

Overview

This lesson plan and the accompanying materials provide everything you need to facilitate a moot court activity on the Supreme Court case of *California v. Greenwood*, which addressed key Fourth Amendment questions on the issue of search and seizure.

Objectives

Students will be able to:

- Explain what the Fourth Amendment says about search and seizure.
- Define the term *exclusionary rule*.
- Examine how the Supreme Court has ruled on key questions of search and seizure over time.
- Defend a position using evidence-based arguments about the search and seizure.
- Deliberate with peers to make a decision about the constitutionality of a police search of a defendant's trash.

Materials

PowerPoint presentation - *California v. Greenwood: A Fourth Amendment Case* (provides introduction, directions, and debriefing questions)

Handout A - *California v. Greenwood: A Moot Court Case*

Handout B - Moot Court Student Guide

Handout C - *California v. Greenwood: Key Questions & Arguments / Rules for Oral Argument*

Procedure

I. Introduction

A. Review the Fourth Amendment with your students. (See Slide 2).

B. Explain to students that they are going to have a chance to participate as attorneys and justices in a Supreme Court case in which they will need to decide about how to apply the Fourth Amendment.

II. Reading & Moot Court Preparation

A. Distribute **Handout A - *California v. Greenwood: A Moot Court Case*** and **Handout B - Moot Court Student Guide** to each student. Review the instructions on Handout B to help focus the students' reading. Give students time to complete the reading and Steps 1 and 2 on Handout B.

Note: You may choose to have students do the reading and Steps 1 and 2 for homework prior to the assignment of roles and to the actual moot court.

B. Display Slide 3. Remind students that they will be dealing with these questions that were before the Supreme Court in the case of *California v. Greenwood* by taking on different roles.

C. Refer to Slide 4, and put students into groups of seven. Each group is its own court. Assign each student the role he/she will be taking on in the moot court activity, and have them note it in Step 3 of Handout B. Members of each group will have the following roles:

- Two will be attorneys for the State of California (petitioner)
- Two will be attorneys for Greenwood (respondent)
- Three will be Supreme Court Justices (the three justices are a "triad")

Note: If necessary to accommodate your class size, you can make some groups of five students rather than seven. In case of this, each group should still have three justices (it's important to have an odd number) but can have just one attorney for each side.

D. After reviewing the questions before the court and assigning the various roles, give students time to work with either their co-counsel or fellow justices to complete Step 4a or 4b on Handout B.

E. After students have worked on Step 4a or 4b, distribute **Handout C - *California v. Greenwood: Key Questions & Arguments/Rules for the Oral Argument*** to assist students in further honing their arguments or questions.

III. Conducting the Moot Court Activity

A. Review the rules for the oral argument of this moot court (see Slide 5 and the reverse side of Handout C). To recap:

1. Attorneys representing the state of California appealed the case to the Supreme Court. They are the petitioners. They will present first (for three minutes).
2. Attorneys representing Greenwood are responding to the appeal. They are the respondents. They will present second (for three minutes).
3. Each side will have one minute for rebuttal. (Rebuttal is when counsel has the opportunity to respond to what was said by opposing counsel.)
4. Justices will ask questions of both sides during the arguments.

B. Display Slide 6 to review the rules for justices' deliberations and the decision. Justices in each group will deliberate out loud. Attorneys listen but do not interrupt.

- Justices deliberate by discussing the arguments they heard. They share with each other the most persuasive and least persuasive arguments they heard.
- Justices provide reasons why they thought arguments were most persuasive or least persuasive.
- After justices deliberate, each triad votes whether they will rule in favor of the State of California or Greenwood.

C. After each group of justices deliberate and vote on a decision, take a poll of the triads in the classroom. (These questions are also listed on Slide 7).

- How many triads voted for the State of California?
- How many for Greenwood?
- How many triads were unanimous in their decision?
- How many had a dissenting justice (voting differently than the other two)?

D. For an alternate set-up to hear about the justices' decisions, you can have all the justice triads come to the front of the room to deliberate in a fishbowl setting.

IV. Debriefing and Wrap-Up

A. Use these questions (also listed on Slides 8 and 9) to debrief the moot court activity within a whole-class discussion:

- What was the most persuasive argument you heard?
- Which side in the case do you think had the stronger arguments? Why?
- What facts of the case do you think were the most important for the State of California?
- What facts of the case do you think were most important for Greenwood?
- How do you think the real Supreme Court decided this case? What makes you think the court decided the case that way?

B. Display Slides 10 and 11 to reveal the Supreme Court's ruling and the key argument of the dissent. Ask students:

1. How does the court's decision compare to both the reasoning and the decision(s) reached by the triads of justices in the classroom moot court?
2. How does the dissent compare to the reasoning and the decision(s) reached by the triads of justices in the classroom moot court? Note: These questions are also included in the "Notes" section of the respective slides.

C. Display Slide 12, which asks students "What do you think?". You may have students answer these questions in a whole-class discussion, or allow them to reflect individually and respond in writing.

D. Slides 13 and 14 include optional, additional information about how the workings of the U.S. Supreme Court compare with the moot court your students have just experienced. You may want to share this with your students to build additional context and introduce relevant vocabulary/key terms.

V. Written Assessment Option

You may assign students to do a written analysis of the Greenwood case using the following prompt. (Also provided on Slide 15).

Based on what you've learned about the 4th Amendment and search and seizure, does the Greenwood decision rightly expand or restrict an individual's 4th Amendment right? Support your conclusion using evidence from the text.

In organizing and writing your essay:

- Briefly summarize the Greenwood case.
- Indicate whether the court's decision expanded or restricted an individual's 4th Amendment right.
- List two facts that support your thesis statement.
- Cite a previous court case that supports your thesis statement.
- Develop an argument for fairness that supports your thesis statement.



California v. Greenwood and the Fourth Amendment

The case of *California v. Greenwood* raised important Fourth Amendment questions. The Fourth Amendment says, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no 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.” If the government obtains evidence while investigating a crime in a way that violates the Constitution, then the evidence must be excluded from trial and cannot be used against a defendant (with very few, narrowly defined exceptions). This is called the exclusionary rule. In *California v. Greenwood*, decided in 1988, the U.S. Supreme Court had to address the question of whether it is a violation of the Fourth Amendment’s protection against unlawful search and seizure for the police to obtain evidence from a person’s trash left on the curb in front of the person’s home.

The 1967 Supreme Court case *Katz v. United States* set out the test to determine if a search or seizure violates the Fourth Amendment. This case involved the government placing a recording device in a public phone booth to record the calls of the defendant whom they suspected of placing illegal bets from the phone booth. The court held that placing a wiretap into a public phone booth to listen to the defendant’s conversation violated his expectation of privacy and was a search and seizure within the meaning of the Fourth Amendment. The test the court came up with and applied in this case to determine whether the government had conducted a search and seizure under the Fourth Amendment is (1) whether the defendant has shown a subjective expectation of privacy in the object searched or seized; and (2) whether society views that expectation as reasonable. This test has been applied to Fourth Amendment cases ever since the court’s ruling in *Katz*.

For example, in 1981 the U.S. Supreme Court decided the case of *Robbins v. California*. In that case, California Highway Patrol officers pulled over Jeffrey Robbins for driving too slowly. The officers smelled marijuana in the car and searched the car. During the search, the officers found two wrapped, opaque (not see-through) packages in a luggage compartment. They unwrapped them to find they contained marijuana. Robbins later appealed his conviction for drug possession. A majority of the justices on the Supreme Court agreed that Robbins had a reasonable expectation of privacy in the closed, opaque packages in his car because the appearance of the packages did not reveal their contents. Though the officers’ search of the rest of Robbins’s car was lawful without a warrant, the search of the closed packages in this case was not. A majority of justices did not all agree, however, that officers would need a warrant in every case where closed containers are found within a car during a lawful, warrantless search.

The Case of Billy Greenwood’s Trash

Billy Greenwood lived in Laguna Beach, California. Early in 1984, police there received information that Greenwood was a drug dealer. The information came from a federal drug enforcement agent who had been told by a criminal suspect that a large shipment of narcotics

was on its way to Greenwood's house in a truck. In addition, one of Greenwood's neighbors complained to police about a large number of vehicles passing through the neighborhood late at night and stopping briefly at the Greenwood residence. The police watched Greenwood's house and verified what the neighbor had said. Police saw a truck leave the house and followed it to another residence that they had previously investigated as a drug-dealing location. The police, however, did not believe that they could get a search warrant without further evidence. The criminal informant was not seen as reliable.

On April 6, 1984, police investigator Jenny Stracner, who had been working on the case for several months, asked the trash collector in Greenwood's neighborhood to pick up the plastic garbage bags that Greenwood placed on the curb in front of his house. Stracner asked the trash collector to give her the bags without mixing their contents with refuse from other houses. The trash collector complied with her request. When Stracner searched through Greenwood's trash, she found items related to use of narcotics. She used this information to obtain a search warrant to search Greenwood's home.

When police officers searched Greenwood's home, they discovered quantities of cocaine and hashish. Greenwood and another person at his house, Dyanne Van Houten, were arrested on felony narcotics charges but were released after they posted bail.

Neighbors continued to report many late-night visitors still coming to the Greenwood house. On May 4, 1984, another investigator, Robert Rahaeuser, again asked Greenwood's regular trash collector to obtain Greenwood's trash. Again, the investigator found evidence of narcotics use. Rahaeuser secured another search warrant for Greenwood's home based on the information from the second trash search. During the second search of Greenwood's house police found additional narcotics and evidence of narcotics trafficking. The police arrested Greenwood again.

Arguments by Greenwood's Attorneys

Greenwood's attorneys argued that the searches of his trash were unconstitutional and that the evidence obtained from the searches and the subsequent searches of his house should be excluded from the trial court. The Fourth Amendment protects the rights of the owner of a container that conceals its contents from plain view. Greenwood's trash bags were opaque and sealed. As Justice Potter Stewart wrote in the *Robbins* decision, "unless the container is such that its contents may be said to be in plain view, those contents are fully protected by the Fourth Amendment." All that Greenwood exposed to public view were the exteriors of several opaque, sealed bags. Until the trash bags were opened by the police, their contents were hidden from the public, so Greenwood had a reasonable expectation of privacy in their contents.

Greenwood's attorneys said that police would not have had probable cause for a warrant to search his house if they had not first obtained evidence illegally by searching his trash. Just because the trash was being turned over to a third party (the trash collectors), that does not make its contents less private and less deserving of protection under the Fourth Amendment. A person's trash tells you a lot about that person, such as eating, reading, recreation habits. It can also reveal intimate details about health, personal hygiene, professional status, political affiliations, private thoughts, personal relationships, and romantic interests. These are areas the

Fourth Amendment was designed to protect, so society should recognize a reasonable expectation to privacy in one's trash left at the curb in sealed, opaque bags.

Greenwood's attorneys also argued that the trash collector was acting as an agent of the police and at the request of the police when he singled out Greenwood's trash from other trash. Society should accept that there is a reasonable expectation of privacy in one's trash, since people generally do not scrutinize others' garbage. The bags were left on the street temporarily before the scheduled trash pickup, so there was little likelihood that anyone would open the bags and inspect their contents. Thus, Greenwood was justified in having a reasonable expectation of privacy in the contents of his trash bags.

Arguments by the State of California

The State of California argued that Greenwood's trash was collected on the street where it had been left for the trash collector. The trash was not on Greenwood's property, but rather was on the street. The trash could have been inspected by just about any member of the public, or even animals and children. Therefore, Greenwood could not have a reasonable expectation of privacy in the contents of his trash left on the curb.

The state's attorneys argued that Greenwood had no expectation of privacy in items left for collection by a third party. Greenwood expected that the trash would be picked up by trash collectors. Once the trash collectors picked up the trash, they would be free to search the trash or allow others to search it, as they did in this case with the police. Someone who leaves garbage in an area particularly suited for public inspection (the curb) with the main purpose of having a third party (the trash collectors) take it cannot have a reasonable expectation of privacy in the items they have discarded.

Under these circumstances, the state's attorneys argued, Greenwood had left his trash in plain sight and had no reason to expect that his trash would remain private. As the court held in *Katz*, "What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection." In this case, Greenwood knowingly exposed his trash to the public by placing it outside the area immediately surrounding his dwelling. If the trash could be observed by any member of the public, then the police may also observe it. Therefore, the State of California claimed that its case against Greenwood was valid, and so was the evidence the police had collected in the search of Greenwood's house.

The trial court dismissed the charges against Greenwood and Van Houten on the grounds that the police should have gotten warrants to search Greenwood's trash bags. The State of California appealed the trial court's decision. The California Court of Appeals agreed with Greenwood and affirmed the trial court's decision, and so did the California Supreme Court. Finally, the State of California appealed the case to the United States Supreme Court. It asked the Supreme Court to decide whether the rights of the defendants had been violated by police in the search of Greenwood's trash in front of the house.

California v. Greenwood raises an important question about the exclusionary rule and about the privacy of a citizen's trash: **At what point may police search your trash without a warrant?**

Moot Court Student Guide

Name: _____ Class: _____

Case: _____

You and your classmates will serve as Supreme Court justices, petitioners (someone who is making an appeal and asking the court to review an earlier decision), and respondents (someone who is responding to an appeal) to argue and decide an important constitutional issue.

Step 1: Read.

- A. Read through the entire case without stopping to think about any particular section.
- B. Re-read the selection and annotate (“talk to”) the text:
- Underline the main/most important points. You can comment on these points in the margins.
 - Circle words or phrases that are unknown or confusing to you.
 - Write down any questions you have in the margin labeling them with a “?”.
 - In the margin write “P” when the facts support the petitioner. Write “R” when the facts support the respondent.

Step 2: Examine the case.

A. What is the question before the court?	B. What is the test? (This is the rule the court has to apply.)
C. Find two facts that support the petitioners’ case.	D. Find two facts that support the respondents’ case.

Step 3: Note your assigned role here:

Step 4a (Attorneys only): Work with your co-counsel to complete sections A and B below. As an attorney, you are responsible for presenting sound arguments to the court.

A. Based on your reading of the case and your notes in Step 2, create a clear, brief statement of your position. Your statement should include at least two facts and an explanation on how those facts support your position. At the end of your statement, include how you would like the court to decide your case.

B. List one previous court decision and explain how it supports your position.

Step 4b (Justices only): Work with the other justices to complete sections A and B below. As a justice, you are responsible for reviewing documents and identifying questions as you prepare to hear a case.

A. Based on your reading of the case and your notes in Step 2 write three questions you would like each side to answer. (What facts do you want clarified? Are there actions by parties involved you would like the attorneys' to justify or explain?)

B. How do the cases cited in the reading apply to this case? (You can ask the attorneys how the facts in this case are similar or different than the cases in the reading.)

California v. Greenwood: Key Questions & Arguments

The Questions Before the U.S. Supreme Court

Did the police conduct a search when they went through Greenwood's trash? Did Greenwood have a reasonable expectation that his trash would remain private?

The Arguments of the State of California (Petitioner)

Attorneys representing the State of California argued that Greenwood had no reasonable expectation of privacy and therefore the trash bags could be searched. To support this position they argued:

1. Police did not conduct a "search" as defined by law. A search is a governmental intrusion into something in which a person has a reasonable expectation of privacy.
2. Greenwood had thrown away the evidence. He had no reasonable expectation of privacy in trash bags left on the curb for the trash collector.
3. Once trash bags are set on the public curb, they are no longer private property and therefore police did not conduct a search.
4. Even if people use trash bags you can't see through, once they leave your house, you can't expect no one will look inside.

The Arguments of Greenwood (Respondent)

Attorneys representing Greenwood argued that he had a reasonable expectation of privacy and therefore the trash bags should not have been searched. To support this position they argued:

1. People have a right to expect that their trash will not be gone through by anyone, including the police.
2. Even trash bags left at the curb contain private property.
3. The trash was left specifically for the trash collector to mix the trash with other trash.
4. The trash was in an opaque trash bag, not in a clear trash bag that anyone could see inside.

Questions for the Justices

1. Why should/shouldn't Greenwood expect that his trash is private property?
2. There is an expectation that a garbage collector will pick up garbage left for collection. Most people do not know how the garbage is processed afterwards or what specifically happens to it. Therefore, how much weight should the Court give to the fact that officers asked the neighborhood's regular trash collector to pick up the plastic bags that Greenwood had left on the curb and

to turn the bags over to them? Should the result in this case turn on this fact? Would it have been just as proper for the officers to pick up the garbage bags themselves?

3. Greenwood left his garbage bags “on the curb in front of his house.” Should the result in this case depend on where the garbage bags were left? What if the garbage bags were left on Greenwood’s porch? What if the bags had been placed off the curb in the street? When does private property become public?
4. Greenwood claims that he had a reasonable expectation that his garbage would not be subject to a search because he placed it in sealed opaque garbage bags. Is there a greater expectation of privacy in sealed opaque garbage bags as compared to transparent ones? What if the garbage bags broke or tore and their contents spilled out of the garbage bag? Would there still be a reasonable expectation of privacy? Is the pivotal point, then, not the type of container that was used but the fact that the container was left unattended?

Rules for Oral Argument

1. Attorneys representing the state of California appealed the case to the Supreme Court. They are the petitioners. They will present first (for three minutes).
2. Attorneys representing Greenwood are responding to the appeal. They are the respondents. They will present second (for three minutes).
3. Each side will have one minute for rebuttal. (Rebuttal is when counsel has the opportunity to respond to what was said by opposing counsel.)
4. Justices will ask questions of both sides during the arguments.
5. After hearing both sides, justices deliberate out loud. Attorneys listen but do not interrupt.
 - Justices: deliberate by discussing the arguments you heard. Share with each other the most persuasive and least persuasive arguments you heard.
 - Provide reasons why you thought arguments were most persuasive or least persuasive.
 - After deliberating, vote whether your court rules in favor of the State of California or Greenwood.