



State of Florida v. Jardines

Brief of Amicus Curiae CATO Institute Supporting Respondent

by [Cato Institute](#) on 7/3/2012

On Nov. 3, 2006, Miami-Dade police officers brought a drug detection dog to the front door of the home of Joelis Jardines without a warrant. The dog alerted to the smell of narcotics. The officers then applied for a search warrant and discovered that marijuana was being grown inside the home. The Supreme Court of Florida held that the dog's warrantless "sniff test" constituted a "search" for purposes of the Fourth Amendment and quashed the conviction. Florida successfully petitioned the U.S. Supreme Court to review the case. Cato's brief supports Jardines but argues more broadly that the case is an ideal opportunity for the Court to revise Fourth Amendment search-and-seizure doctrine altogether. Instead of determining whether a person has "reasonable expectations of privacy," courts should examine whether a "search" has occurred by seeing if police accessed something that was hidden from plain view. When a person has relied on physics — concealing something, muffling sounds, etc.— and the law to arrange for something to be hidden, the Fourth Amendment and the Court should back those privacy-protective arrangements, breaching them only when there is probable cause and a warrant (or some exception to the warrant requirement). To hold otherwise would be to allow the government to invade privacy using not just drug-sniffing dogs but evermore sophisticated technology in ways the Framers anticipated and foreclosed.

Please see full brief below for more information.

<http://www.jdsupra.com/post/fileServer.aspx?fName=b98d1160-6a6f-4d4c-9375-be2144d64119.pdf>