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State v. Sampson:

Search of Garbage Placed for Collection in a Public and Readily Accessible Area Does Not Violate the Fourth Amendment

By Michelle M. Owens

In a four to three decision, the Court of Appeals of Maryland defined the scope of the Fourth Amendment when a resident places her garbage within the curtilage of her property and the police subsequently take the trash directly from the property. *State v. Sampson*, 362, Md. 438, 765 A.2d 629 (2001). Furthermore, the court held that an individual relinquishes any reasonable expectation of privacy in the trash once it has been placed in, or even near, a public way for collection. *Id.* at 452, 765 A.2d at 636.

Respondent, Donna L. Sampson (“Sampson”), became the target of an investigation involving controlled dangerous substances. Upon a tip received by a business merchant, members of the Cambridge City Police Department began looking for evidence by searching through Sampson’s trash. Sampson’s home has a shallow front yard that leads to a municipal sidewalk, while the curb and public street are on the far sidewalk. The garbage bags were routinely left in front of a tree located two to three feet from the sidewalk. Upon learning that Sampson’s trash was regularly collected from her home on Monday and Thursday mornings, the police performed “trash runs” on

six successive trash collection days. Just before the trash collector was due to arrive, the investigating officer, while standing on the sidewalk, reached over the two to three feet of lawn, picked up the trash without stepping on the lawn, and took the trash to the police station, where the trash bags were opened and searched. The garbage bags were opaque and made of green or white plastic. The police obtained clear plastic baggies, with the corners cut out, that contained traces of cocaine from the garbage bags.

Sampson was convicted in the Circuit Court for Dorchester County of possession of cocaine and maintaining a common nuisance. The Court of Special Appeals of Maryland reversed Sampson’s convictions holding that the seizure of the trash bags, and their contents, violated Sampson’s Fourth Amendment rights. The Court of Appeals of Maryland granted certiorari to determine if it is permissible for the police, either directly or through prior arrangements with trash collectors, to seize and search garbage that has been set out for collection.

The court began its analysis by reviewing case law in which the United States Supreme Court established guiding principles

regarding the issue, beginning with *Calif. v. Greenwood*, 486 U.S. 35, 108 S. Ct. 1625 (1988). *Id.* at 441, 765 A.2d at 630. In *Greenwood*, the Court held that when the police, through a prior arrangement with the trash collector, obtain, open, and search through trash containers set out on the curb outside the curtilage of a home, they do not violate the Fourth Amendment. *Id.* at 441-42, 765 A.2d at 630 (citing *Calif. v. Greenwood*, 486 U.S. 35, 108 S. Ct. 1625 (1988)). In the instant case, the court of appeals opined that the curtilage concept was designed to afford the immediate area surrounding a house the same protections as the house itself. *Sampson*, at 442, 765 A.2d at 631 (citing *United States v. Dunn*, 480 U.S. 294, 107 S. Ct. 1134 (1987)). Accordingly, the Court of Appeals of Maryland assumed, for purposes of this case, that the trash bags were left within the curtilage of Sampson’s home. *Id.*

The court further analyzed the Fourth Amendment under the pivotal case of *Katz v. United States*, 389 U.S. 347, 88 S. Ct. 507 (1967). *Id.* at 442-43, 765 A.2d at 631. In *Katz*, the Court held that the Fourth Amendment does not protect places, but instead protects people. *Id.* (citing *Katz*

v. United States, 389 U.S. 347, 351-52, 88 S. Ct. 507, 511). Therefore, what one knowingly exposes to the public does not become subject to the protections afforded by the Fourth Amendment. *Id.* As a consequence, the court of appeals concluded that although Sampson may have entertained a subjective expectation of privacy in her trash, such an expectation was not objectively reasonable.

The court distinguished between *Greenwood* and the situation present in *Sampson*, where the resident places the trash within the curtilage of her home and the police take the trash directly from the property, rather than from the trash collector. *Id.* The court of appeals, however, found no significant difference in the two situations. *Id.* The court found support in the guiding principal that generally, when one places trash in, or even near, a public way for collection purposes, the person loses any reasonable expectation of privacy in such material. *Sampson*, at 446-47, 765 A.2d at 633-34. Subsequently, the court gave great weight to the rule:

Absent proof that a person has made some special arrangement for the disposition of his garbage inviolate, he has no reasonable expectation of privacy with respect to it once he has placed it for collection. The act of placing it for collection is an act of abandonment and what happens to it thereafter is not within the protection of the fourth amendment. *Id.* at 447, 765 A.2d at 634 (quoting *United States v.*

Cromwell, 586 F.2d 1020, 1025 (4th Cir. 1978), *cert. denied*, 440 U.S. 959, 99 S. Ct. 1500 (1979)).

Consequently, the Court of Appeals of Maryland found that Sampson's trash was in an area at or near a public way, and thus exposed and readily accessible to the public, and that she relinquished any reasonable expectation of privacy in the seized trash. *Sampson*, at 451-52, 756 A.2d at 636. Therefore, whether the trash at issue is technically found within the curtilage of one's home is no longer the proper focus; instead the standard the court will apply involves inquiry into whether the person placed her trash for collection in an area so that it was readily accessible to the public. *Id.*

Sampson demonstrates the on-going debate surrounding the issue of whether it is permissible for the police, either directly or through prior arrangements with trash collectors, to seize and search trash set out by persons for collection. Much of the debate focuses on whether the trash is within the boundary of the curtilage concept and who takes the trash, a police officer or the routine trash collector. The Court of Appeals of Maryland limited such an inquiry. The location of the trash is not an important focus, but the pivotal inquiry is whether the trash is readily accessible to the public. Although the court is certainly not expunging the curtilage concept, it is defining the scope within which the concept functions in interpreting Fourth Amendment inquiries. Whether

one places his trash within or outside that area intimately tied to the home itself is not important, because the person discarding the trash has no expectation of privacy in the trash. Conclusively, the court defines Fourth Amendment protections based on a reasonable expectation of privacy and such expectation must be objectively reasonable to society.