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Arizona v. Evans: Adapting the Exculsionary Rule to Advancing Computer Technology

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Arizona v. Evans: Adapting the Exclusionary Rule to Advancing Computer Technology

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{1} "*It would surely be an extreme instance of sacrificing substance to form were it to be held that the constitutional principle of privacy against arbitrary official intrusion comprehends only physical invasions by the police*."[1]

I. Introduction

{2} The Fourth Amendment to the Constitution protects people from illegal search and seizure:

> 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.[2]

The exclusion of evidence obtained from such an illegal search, known as the exclusionary rule, is purported to sanction unconstitutional police conduct by prohibiting illegally seized evidence from being admitted into court.[3] The state's case against a defendant is almost always harmed by the application of the rule, and thus police are deterred from violating the rights of defendants.

{3} The application of the exclusionary rule became somewhat clouded in the latter part of the 20th century.[4] Courts found themselves constantly weighing the costs versus the benefits of applying the rule. How far should a court go in protecting the rights of defendants against illegal searches and seizures, when they have allegedly broken the law? Should the exclusionary rule be invoked to protect these rights when the police have acted in error, as opposed to intentionally overstepping constitutional bounds?

{4} The advent and increased use of computer systems in police record keeping has required courts to address the challenges new technology has presented to the constitutional protection of defendants in criminal cases.[5] Both state and federal courts have examined issues of warrantless arrest, false imprisonment, and jury selection in relation to computers errors. The first U.S. Supreme Court case to examine computer errors as they relate to the application of the exclusionary rule is *Arizona v. Evans*.[6]

{5} This casenote will discuss the impact of *Evans*, both on the exclusionary rule and on computer errors in criminal cases. Section II examines the development of the law prior to *Evans*, as it relates to computer errors in the context of criminal cases. Section III analyzes the court's reasoning and analysis in deciding *Evans*. Section IV predicts the impact of *Evans* on exclusionary rule cases involving computer error.

II. The State of the Law Prior to *Arizona v. Evans*

A. Early Search and Seizure Law

{6} The Supreme Court first applied the exclusionary rule to a state case in *Mapp v. Ohio*.[7] The Court in *Mapp* held that the exclusionary rule was vital to Fourth and Fourteenth Amendment cases.[8] This holding significantly expanded the rule by applying it to the states in addition to the federal government.[9]

{7} In *Aguilar v. Texas*,[10] the Court held that in issuing a search warrant, the magistrate must be informed of some of the circumstances surrounding the warrant and must be informed about the reliability of the informant. The Court further explained this test in *Spinelli v. United States*,[11] holding that for a magistrate to rely on an informant's tip in issuing a warrant, the state must present specific facts as to the credibility and reliability of the informant. Later courts combined these cases to create the *Aguilar-Spinelli* test that was used by the Supreme Court until 1983.

{8} At that point, the Court abandoned the *Aguilar-Spinelli* test in *Illinois v. Gates*.[12] The Court found that to determine probable cause, the magistrate must look at the "totality of the circumstances," rather than the reliability of an informant.[13] This decision provides a more streamlined test for determining the reasonableness of police conduct and whether or not the exclusionary rule should be applied. Then, in

Massachusetts v. Sheppard,[14] just prior to *Leon*, the Court held that although a warrant was to be found invalid after a search, the exclusionary rule did not apply.

B. *United States v. Leon*

{9} In 1984, the Court reformulated the test for applying the exclusionary rule and narrowed the scope of Fourth Amendment protection for those arrested for crimes. In *Leon*, police officers received a tip from an informant regarding possible drug dealing among the defendant Leon and others. The officers observed suspicious activities and obtained search warrants. They found incriminating evidence in the searches, but the warrants were later invalidated because the police lacked probable cause and also because the informant was unreliable. Nevertheless, the Court allowed the evidence obtained in the search to be admitted because the police were acting in good faith.[15]

{10} To determine whether the exclusionary rule should be applied, the Court applied a cost-benefit analysis.[16] The benefits of deterring unconstitutional police conduct are weighed against the costs of excluding the evidence. The purpose of the rule is to sanction police for overstepping constitutional bounds. In *Leon*, the police were found not to have overstepped their bounds, so the Court concluded that there would be little benefit in applying the rule. The Court found that the costs were much greater. Though the percentage of criminals released was small as a result of its application, the overall number was great.[17] Releasing someone who had broken the law was a cost outweighing any benefit realized in attempting to deter outrageous police conduct.

{11} Decisions prior to *Leon* neglected to apply a *per se* or "but-for" exclusionary rule. They also neglected to create a good-faith exception to the exclusionary rule. The Court finally created the good-faith exception with *Leon*, pointing out the possibilities of excluded evidence still being used in court, then detailing the purposes of the exclusionary rule.

{12} The Court based its ruling on three points. First, the purpose of the exclusionary rule was to deter police, not to punish judges' conduct (in *Arizona v. Evans*, the error originated from the magistrate).[18] Second, there was no evidence presented to show that judges and magistrates have a tendency to ignore the Fourth Amendment and deny its protection.[19] Finally, there was no evidence that the exclusionary rule would have any deterring effect on judges' conduct.[20] Since judges are in an impartial position in criminal cases, they have no interest in the outcome of the prosecution. If evidence supporting a conviction is excluded, applying the rule has little effect on a judge's conduct. The court concluded, "[i]n the absence of an allegation that the magistrate abandoned his detached and neutral role, suppression is appropriate only if the officers were dishonest or reckless in preparing their affidavit or could not have harbored an objectively reasonable belief in the existence of probable cause."[21]

C. The Courts' Struggle with Computer Errors and Criminal Protection

{13} Both the federal and state courts have struggled with the issue of how computer errors might affect the rights of a person charged with a crime. The Second,[22] Sixth,[23] Eighth,[24] and Ninth[25] Circuits have addressed computer errors in the context of criminal cases with varying outcomes.[26] California, New York, and Maryland have unanimously excluded evidence in criminal cases involving a computer error. The federal Circuit courts have not yet heard a case specifically concerning a computer error as it relates to the exclusionary rule, and the Supreme Court did not hear such a case until *Arizona v. Evans*.[27]

1. The Federal Courts

{14} As mentioned above, federal courts may or may not provide remedies for criminal defendants whose

cases somehow involve computer errors. The Second Circuit protected a defendant's rights when a computer-generated jury selection system excluded residents of a particular geographic region from serving as potential jurors.[28] In *United States v. Jackman*, jurors were not selected from Hartford, but were selected from other nearby areas. The court found a Sixth Amendment violation, holding that Jackman was systematically denied a jury of his peers and was prevented from getting a fair trial.

{15} In *United States v. Copley*,[29] a Sixth Circuit case, a computer error caused the defendant's imprisonment for 70 days. Charged with federal and state crimes, Copley was held in prison for the state crimes before going to trial for federal crimes. The state had dropped the charges against Copley, but the information was not entered into the computer. Copley tried to defeat his remaining federal charges, claiming that he was denied a speedy trial. The court refused to grant his request because Copley was held merely as a result of the error.

{16} Conversely, in the Ninth Circuit case of *United States v. Mackey*,[30] the defendant was arrested in Nevada because of an outstanding California warrant. Although Mackey's name had been cleared five months prior to the arrest, it still remained in the FBI's National Crime Information Center computer system. The subsequent search of Mackey revealed an unlawful firearm. The court concluded that the computer inaccuracy deprived Mackey of his liberty without due process of law and that the government may not "profit" from such an error.[31]

{17} In a later case, the Ninth Circuit upheld a man's false imprisonment claim when his arraignment was delayed for 114 days because of a court clerk's error when entering his name into the computer.[32] The court found that Multnomah County, Oregon, officials had the option to use a range of safeguards to prevent the delay in arraignment, yet failed to utilize any of them. Although county officials performed a weekly manual check of inmates' records the check was not for purposes of setting arraignment. The court found that performing such a check would not be an undue burden to place on officials, and that software was available to run a check on inmates and prevent such unlawful detainment. The court therefore upheld the false imprisonment claim.

{18} An Eighth Circuit case, *Edwards v. Baer*,[33] is the federal case which includes a computer error most like that made in *Arizona v. Evans*. Edwards was subject to a warrantless arrest because a computer check found that he owed parking tickets, when he in fact did not. Edwards filed a civil rights claim against the arresting officer and others, arguing the arrest was unreasonable and unlawful. The Eighth Circuit refused to recognize his civil claim because the computer information, although erroneous, provided sufficient probable cause to allow a warrantless arrest.

2. The State Courts' Unanimous Application of the Exclusionary Rule

{19} The state courts have been much more willing to exclude evidence resulting from arrests based on computer errors. In *Carter v. State*,[34] the Maryland Court of Special Appeals decided a case on police record keeping errors. In 1969, James Davis reported his car stolen. Within ten minutes of the report, the car was found after it had been involved in an accident. The police report reflecting the car theft, however, was not removed from the department's files. Davis then took the license plates from the car and put them on another car. Two months later, the police pulled Davis over, claiming that he was driving a stolen car. In the subsequent search, the police found narcotics and a firearm. Davis and his passenger, Carter, were convicted of possession. Carter appealed on the grounds that the police did not have probable cause for the arrest. The court agreed, and overturned the conviction because the information that was in the collective knowledge of the police department was erroneous, and therefore outside the realm of probable cause.[35]

{20} In *People v. Ramirez*,[36] the California Supreme Court overturned a conviction based on a computer error which resulted in the issuance of a faulty warrant for the defendant's arrest. Following the arrest and

subsequent search, the police found PCP on Ramirez' person and charged him with possession. The police later discovered that the original warrant for Ramirez' arrest was no longer valid. Ramirez moved to exclude the evidence on the grounds that the arrest was unlawful. Relying on *Whiteley v. Warden*,[37] the court found that the evidence was not immune from the exclusionary rule simply because the officer acted in good faith. [38]

{21} The New York Court of Appeals also relied on *Whiteley* in overturning a conviction of a man who was stopped for traffic violations, arrested because of a computer record error and subsequently searched. In *People v. Jennings*,[39] the court held that any evidence found during an arrest resulting from computer error would be suppressed.[40] The court rejected the government's good faith argument and stated that an arrest based on computer error was not based on probable cause.[41]

3. The State of the Law Prior to *Arizona v. Evans*

{22} Though the Federal courts were split on whether relief should be available in criminal cases involving computer error, the state courts unanimously applied the exclusionary rule prior to *Evans*. Each state addressing the issue held that a computer error was a correctable mistake by the police, and that the state should not profit from its own mistakes thereby depriving a defendant of his liberty. Yet, the United States Supreme Court superseded every one of these state decisions with its holding in *Arizona v. Evans*.[42]

III. *Arizona v. Evans*

A. Factual Background and Procedural History

{23} Evans was driving the wrong way on a one-way street when a police officer stopped him and asked to see his driver's license. Evans told the officer that his license had been suspended, and this was verified by the officer's computer check of Evans' name. The computer check also revealed an outstanding misdemeanor warrant for Evans' arrest. The officer arrested Evans, searched his car, and found marijuana.

{24} After Evans was charged with possession of marijuana, it was discovered that the misdemeanor warrant had been quashed. At trial, Evans argued that the marijuana was the fruit of an unlawful arrest and should be excluded from evidence. He argued that the good faith exception to the exclusionary rule should not apply because police error was the reason for his arrest.[43]

{25} The trial court excluded the evidence, accepting Evans' argument that "the purposes of the exclusionary rule would be served here by making the clerks. . . more careful about making sure" errors like this were not repeated.[44] The trial court did not find as a matter of fact whether the error was that of the court clerk's office or the clerk of the sheriff's office. The Arizona Court of Appeals reversed because it saw that the purpose of the exclusionary rule was to deter police officers, not office employees who are not connected to the arresting officers' department.

{26} The Arizona Supreme Court reversed, distinguishing between court employees and law enforcement personnel. The court felt that applying the exclusionary rule in this case would encourage the accuracy of record keepers in police departments. The U.S. Supreme Court granted certiorari to hear whether the exclusionary rule applies to faulty computer records.

B. The Majority

{27} The Court first found it had jurisdiction to review the case, the discussion of which is outside the scope

of this casenote. Justice Rehnquist then examined the background of the exclusionary rule and its relationship to the Fourth Amendment. He stressed that the exclusionary rule is not a part of the Fourth Amendment as stated in *Leon*, and that the fruits of an unlawful search create no new Fourth Amendment wrong, according to *United States v. Calandra*.[45] Justice Rehnquist separated the issue of the exclusionary rule and whether a Fourth Amendment violation has taken place.[46]

{28} The opinion continued with a discussion of the history and purpose of the exclusionary rule, stating that it exists to deter unreasonable police conduct. Justice Rehnquist defeated Evans' principal arguments for excluding the evidence. Evans' first case, *United States v. Hensley*,[47] did not contradict the separation between the Fourth Amendment and the exclusionary rule. Justice Rehnquist distinguished Evans' second case, *Whiteley v. Warden*,[48] on the dual grounds that subsequent case law has distinguished between Fourth Amendment violations and the exclusionary rule, and that *Whiteley*'s precedential value was dubious. The opinion then overruled the decision of the Arizona Supreme Court.

{29} The Court reversed the decision of the Arizona Supreme Court for the same three reasons it relied upon in *Leon*. First, the exclusionary rule is designed to deter police misconduct and no misconduct was found in Evans' case. Second, there is no evidence that court employees are inclined to ignore the Fourth Amendment. Third, there is no evidence that applying the rule will make employees more accurate or deter misconduct. Applying the rule because of a court employee's error would not alter the behavior of the officer making the arrest, because the officer was doing his job. Had the officer not arrested Evans upon notice of the outstanding warrant, the officer would have failed in performing his duty.

{30} The Court finally looked at the specific facts of *Evans*. The record revealed that this type of error occurred "every three or four years," and when such error was discovered, the clerks immediately made the correction and searched for other similar errors.[49] The Court held that the arresting officer was not acting unreasonably. Thus, "[a]pplication of the *Leon* framework supports a categorical exception to the exclusionary rule for clerical errors of court employees."[50]

C. Concurrence

{31} Justice O'Connor, while joining Justice Rehnquist's opinion, wrote a separate concurring opinion, which was joined by Justice Souter and Justice Breyer. Justice O'Connor raised the issue of whether the police acted reasonably in relying on the record keeping system itself.[51] She stated that it would not be reasonable for the police to rely on a system "that has no mechanism to ensure its accuracy over time and that routinely leads to false arrests . . . ."[52] She likened the reliability of the computer record keeping systems to the reliability of an informant. Finally, Justice O'Connor warned about relying blindly on a computer system. In a single paragraph, Justice Souter added that the exclusionary rule should extend to other government personnel to allow for a reasonable expectation of accuracy, though he did not address how far he thought the Court should go.

D. Dissent

{32} Justice Stevens dissented in *Evans* because he felt that "the exclusionary rule is not fairly characterized as an 'extreme sanction.'"[53] He believed the state should not be allowed to profit from its own error. Justice Stevens also distinguished this case from *Leon*, because the warrant in *Leon* was valid, whereas in *Evans* no warrant existed. He believed that the indignity of an arrest stemming from a bureaucrat's error is just as outrageous as an arrest made without probable cause.[54]

{33} Justice Ginsburg filed a lengthy dissent, warning against the premature adjudication of a case involving computer record keeping while the technology is still developing and courts' knowledge is so limited. Justice

Ginsburg felt that this was an issue for the state courts, and should not be reviewed by the Supreme Court.

{34} Justice Ginsburg then discussed the dangers of blind reliance on computer systems by law enforcement personnel. Computer systems enlarge the impact of errors, because the information is accessible to a greater number of people and agencies than ordinary written records.[55] One mistake has a greater impact when a computer can simultaneously transmit the erroneous information to many people. Justice Ginsburg felt that such a mistake should be deterred by the exclusionary rule as much as any misconduct by arresting officers.

IV. The Impact of *Arizona v. Evans*

{35} Justice O'Connor's concurrence raises the question that the Court will most likely have to determine within the next 20 years: whether reliance on faulty computer record keeping is reasonable, and protected under the good faith exception to the exclusionary rule. Justice Souter raised an even broader question: "how far . . . our very concept of deterrence by exclusion of evidence should extend to the government as a whole . . . ."[56] The *Evans* decision followed right in line with prior decisions from *Leon* to the present, but the Court failed to address how far the pendulum should swing in allowing illegally obtained evidence in cases of computer error.

{36} No record keeping system is infallible, human or computer. People make mistakes, and computer programs are only as good as their programmers. Under *Evans*, the Court seems to allow such mistakes, and reads the purpose of the exclusionary rule so narrowly as to only apply it in cases where the police have acted unconstitutionally. Justice O'Connor raises the point that a police officer would not be acting reasonably if he or she relied on a computer system of which the accuracy could not be determined and routinely led to false arrests. Yet, under *Evans*, such conduct is not sanctionable by the exclusionary rule.

{37} Where to strike the balance? The court fails to answer this question in *Evans*. The purpose of the exclusionary rule is to deter police misconduct; however, applying it too liberally allows guilty persons to go free. Applying it too narrowly allows for no expectation of accuracy in record keeping systems, be they computer or human. To decide this issue on a case-by-case basis would hinder the judicial system because too many criminal defendants would attempt to invoke the exclusionary rule. The Supreme Court needs to expand the application of the rule in order to encourage and ensure accurate computer records and prevent false arrests. Currently, no incentive to do so exists.

{38} Justice Ginsburg was correct in her statement that a computer error is a mistake that should be deterred by the exclusionary rule. Police may now rely on computers in their apprehension of criminals, but they are not accountable for errors in the computer records. The police now have the benefit of the technology, without the responsibility to use it properly. Some computer technology currently exists to monitor errors and check records regularly. Police and office staff can check for errors on a regular basis. Yet, since the ruling in *Evans*, the police are under no duty to do so, and may deprive a person of his or her liberty because of blind reliance on a computer's records without regard for the accuracy of those records.

{39} *Arizona v. Evans* has precedential value for every state and local police force which uses a computer record keeping system. The computer errors in *Evans* may have occurred every three or four years, but they may occur more frequently in other jurisdictions. The Court failed to set a limit as to how many and how often errors may occur before the police have a duty to monitor their systems. Evans' counsel did not argue that the technology existed to allow for closer monitoring of computer errors.[57] Therefore, the Court did not address the issue in more detail. The Court seems to have blindly relied on the technology just as the police did in *Evans*.

{40} Most likely, the Court will follow in its usual pattern of decisions, starting with one precedential case,

followed by decisions supporting the original precedent, concluding with a recognized limit to the rule. Several cases may come before the Court in an attempt to modify *Evans* before a case involving a gross violation will convince the Court to reconsider. Attorneys in these cases now have the duty in the zealous representation of their clients to educate themselves and the courts on both the capabilities and the limits of computer technology to ensure that the rights of defendants are protected.

V. Conclusion

{41} The Supreme Court in *Arizona v. Evans* further narrowed the application of the exclusionary rule under the Fourth Amendment, holding that a clerical error in a police computer system was not the type of police misconduct the rule was intended to deter. The Court followed prior case law, particularly *United States v. Leon*, in rendering its decision. This was the Court's first attempt at applying Fourth Amendment rules to growing computer technology. The Court failed, however, to address how far courts should go in excusing computer and clerical errors for exclusionary rule purposes, and did not create a test for the reasonable expectation of accuracy in police records. Almost certainly, more cases will appear in the future asking the Court to answer this and other technology-related legal questions.

{{END}}

Footnotes

[*] C. Maureen Stinger is a student at the T.C. Williams School of Law at the University of Richmond in Virginia expecting a J.D. degree in December of 1996. She joined the staff of *The Journal* in August, 1995. Additionally, she is the co-president of the Richmond Law and Technology Association. <stinmaur@uofrlaw.urich.edu>

[**]**NOTE:** All endnote citations in this article follow the conventions appropriate to the edition of THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION that was in effect at the time of publication. When citing to this article, please use the format required by the Seventeenth Edition of THE BLUEBOOK, provided below for your convenience.

C. Maureen Stinger, Casenote, Arizona v. Evans: *Adapting the Exclusionary Rule to Advancing Computer Technology*, 2 RICH. J.L. & TECH. 4 (1996), *at* http://www.richmond.edu/jolt/v2i1/stinger.html.

[1] Poe v. Ullman, 367 U.S. 497, 551 (1961) (Harlan, J., dissenting).

[2] U.S. CONST. amend IV.

[3] *See* United States v. Leon, 468 U.S. 897 (1984).

[4] *See* discussion *infra* parts II.A, II.B.

[5] *See* discussion *infra* part II.C.

[6] 115 S.Ct. 1185 (1995).

[7] 367 U.S. 643 (1961).

[8] *Mapp*, 367 U.S. at 657. Justice Clark stated, "our holding that the exclusionary rule is an essential part of both the Fourth and Fourteenth Amendments is not only the logical dictate of prior cases, but it also makes very good sense.&quot *Id*.

[9] In United States v. Calandra, 414 U.S. 338 (1974), the court narrowed the scope of the exclusionary rule and helped define its purpose. The court held that the exclusionary rule was a part of the Fourth Amendment, but did not universally apply in all cases where a Fourth Amendment violation occurred.

[10] 378 U.S. 108 (1964), *overruled by* Illinois v. Gates, 462 U.S. 213 (1983).

[11] 393 U.S. 410 (1969), *overruled by* Illinois v. Gates, 462 U.S. 213 (1983).

[12] 462 U.S. 213 (1983).

[13] *Id*.

[14] 468 U.S. 981 (1984).

[15] *Sheppard*, 468 U.S. at 904.

[16] *Id*. at 907.

[17] *Id*. at 907 n.6.

[18] *Id*. at 916.

[19] *Id*.

[20] *Id*. at 916-17.

[21] *Id*. at 926.

[22] United States v. Jackman, 46 F.3d 1240 (2d Cir. 1994).

[23] United States v. Copley, 774 F.2d 728 (6th Cir. 1985), *cert*. *denied*, 475 U.S. 1049 (1986).

[24] Edwards v. Baer, 863 F.2d 606 (8th Cir. 1988).

[25] Oviatt v. Pearce, 954 F.2d 1470 (9th Cir. 1992); United States v. Mackey, 387 F. Supp. 1121 (D. Nev. 1975).

[26] *See generally* United States v. Jackman, 46 F.3d 1240 (2d Cir. 1994); Edwards v. Baer, 864 F.2d 606 (8th Cir. 1988); United States v. Copley, 774 F.2d 728 (6th Cir 1985), *cert*. *denied*, 475 U.S. 1049 (1986).

[27] 115 S. Ct. 1185 (1995).

[28] United States v. Jackman, 46 F.3d 1240 (2d Cir. 1994).

[29] 774 F.2d 728 (6th Cir. 1985).

[30] 387 F. Supp. 1121 (D. Nev. 1975).

[31] *Id*. at 1125.

[32] Oviatt v. Pearce, 954 F.2d 1470 (9th Cir. 1992).

[33] 863 F.2d 606 (8th Cir. 1988).

[34] 305 A.2d 856 (Md. 1972).

[35] *Id*. at 860.

[36] 668 P.2d 761 (Cal. 1983).

[37] 401 U.S. 560 (1971). "*Whiteley* teaches that probable cause for arrest is not conclusively established by a police communication asking that the arrest be made, for otherwise such a communication would allow the police to make seizures without the grounds required under the Fourth Amendment." 1 WAYNE R. LAFAVE, SEARCH AND SEIZURE § 3.5(b),at 629-30 (1978).

[38] *Ramirez*, 668 P.2d at 764. "The fact that the officer acted in good faith reliance on the communication does not magically resuscitate a recalled warrant and, phoenix-like, recreate a valid outstanding document." *Id*.

[39] 430 N.E.2d 1282 (N.Y. 1981).

[40] *Id*. at 1285.

[41] *Id*.

[42] 115 S. Ct. 1185 (1995).

[43] *Evans*, 115 S. Ct. at 1188.

[44] *Id*. (quoting App. at 37).

[45] *Id*. at 1191 (citing United States v. Calandra, 414 U.S. 338, 354 (1973)).

[46] *Id*. (citing Illinois v. Gates, 462 U.S. 213, 223 (1983)).

[47] 469 U.S. 221 (1985).

[48] 401 U.S. 560 (1971).

[49] *Id*. at 1192-94 (quoting App. at 37).

[50] *Id*. at 1194

[51] *Id*.

[52] *Id*.

[53] *Id*. at 1195 (quoting Rehnquist, J., at 1191).

[54] *Id*. at 1197.

[55] *Id*. at 1199.

[56] *Id*. at 1195.

[57] *See*, Respondent's Brief, *Evans*, 1994 WL 507386 (U.S. Aug. 23, 1994) (No. 93-1660).
