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Supreme Court Relaxes Wiretap Evidence Rules

In a pair of 6-to-3 decisions, the Supreme Court yesterday gave police and federal authorities greater leeway to use evidence obtained from authorized wiretaps and to conduct searches without a warrant.

In both rulings, Justices Potter Stewart and Byron R. White joined President Nixon's four court appointees to provide the majority. Justices William O. Douglas, William J. Brennan Jr. and Thurgood Marshall dissented

The wiretap case originated in Chicago, where officials obtained a court order to tap telephone conversations of Irving Kahn and "others yet unknown." Later, evidence from the wiretap was used to bring gambling charges against Kahn and his wife, Minnie.

U.S. District Judge Thomas R. McMillen and the Senate U.S. Circuit Court of Appeals barred use of the wiretap evidence against Mrs. Kahn on the ground she was not a person "unknown" to the investigators when they applied for court authority, and her name should have been listed.

But Stewart, who wrote the majority opinion, said there was nothing in the 1968 Crime Control Act which would support such a conclusion.

In the other case, White declared for the majority that arresting officers are entitled to conduct a warrantless search of a home by showing that a third party "who possessed common authority" over the premises gave consent.

The issue arose when police arrested William Earl Mattlock, a bank robbery suspect, in the yard of a rural Pardeeville, Wis., home rented by Mr. and Mrs. Walter Marshall. The Marshall's daughter, who said she occupied the same room with Mattlock, gave the arresting officers permission to search the premises.

U.S. District Judge James E. Doyle of Madison ruled out evidence that $4995 in cash was found in the room cash was found in the room.

But White held that "when the prosecution seeks to justify a warrantless search by proof of voluntary consent, it is not limited to proof that the consent was given by the defendant . . ."

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