

People v. Claeys
(March 26, 2002) __ Cal.App.4th __

ISSUE

Did the defendant have a reasonable expectation of privacy as to his backyard marijuana garden that could be seen by his neighbors?

FACTS

Officers in Orange County received an anonymous tip that Claeys was growing marijuana in his backyard. So they drove over to investigate. But instead of going directly to Claeys' house, they went to the house located directly behind it and, without the owner's permission, walked into the backyard. There was a wooden fence separating the two yards but the officers could see over it and, sure enough, they saw "numerous" marijuana plants, some of them over 10 feet tall.

The officers then went back to the office and obtained a warrant to search the yard and seize the marijuana. Claeys was subsequently convicted of cultivating marijuana and possessing marijuana for sale.

DISCUSSION

Claeys contended the officers' presence in his neighbor's backyard was unlawful and, therefore, the marijuana must be suppressed. The court disagreed, ruling that Claeys did not have a reasonable expectation of privacy as to his marijuana plants because they could be seen from his neighbors' yards. Said the court, "[D]efendant's Fourth Amendment rights stopped at his backyard fence because the plants were readily visible from his neighbor's property and he had no reasonable expectation of privacy in what could be seen from there."

Even assuming for the sake of argument that the officers' entry into the neighbor's yard was a trespass, it didn't matter. This is because a defendant cannot obtain the suppression of evidence based solely on a violation of someone else's rights. As the court noted, "We can find no California cases, nor does defendant cite any, where a search has been held invalid under the federal constitution because the police trespassed onto property *adjoining* a defendant's property."

Accordingly, Claeys' conviction was affirmed.