

**State v. Stevens**  
123 Wis. 2d 303 (1985)

*In the 1980s and 1990s, many cases came to the courts challenging the validity of a search or seizure under the federal and state constitutions. This is one such case. In this case, a divided Wisconsin Supreme Court determined that police may seize and search a person's garbage without a warrant, affirming in part and reversed in part a decision of the Court of Appeals. Justice Roland B. Day wrote the majority opinion and Chief Justice Nathan S. Heffernan wrote the dissent. The case originated in Milwaukee County Circuit Court.*

In this case, the Supreme Court determined that there is no reasonable expectation of privacy in curbside garbage. Under the facts of this case, the Court said this includes garbage obtained by a garbage collector who is working as a secret agent of the police and collects the garbage for the sole purpose of turning it over to authorities.

The defendant, David Stevens, was under investigation for suspected drug activities. A deputy from the Milwaukee County Sheriff's Department wanted to search Stevens' garbage for drug-related evidence. The deputy told the municipal garbage collector to bring Stevens' garbage to him after the next scheduled pickup.

On the day Stevens' trash is normally picked up, the garbage collector found the cans empty and knocked on Stevens' door to ask for his garbage. Stevens did not know that the collector was acting on behalf of the deputy. Stevens opened his garage door and let the collector take the four garbage bags from inside. The collector then gave them to the deputy to search.

The deputy found enough evidence in the garbage bags to obtain a search warrant for Stevens' home. Cocaine, marijuana, drug paraphernalia and money in the home led to Stevens' arrest. He was charged with possession of cocaine and marijuana with intent to deliver.

The defendant claimed that searching his garbage was unlawful and, therefore, the warrant to search his house (which was based on the evidence found in the garbage) was improperly given. The trial court, Court of Appeals and Supreme Court all disagreed.

The Supreme Court found that the seizure and search of the defendant's garbage did not violate his rights under the U.S. or Wisconsin Constitutions.\* Justice Day wrote:

(B)ecause there is no reasonable expectation of privacy in garbage that is removed by municipal garbage collectors in routine collection, the defendant had no reasonable expectation of privacy in garbage which was removed by the municipal collector pursuant to his consent.

Dissenting, Chief Justice Heffernan wrote:

It is difficult to believe that anyone would seriously contend that there is not a reasonable expectation of privacy in garbage against the prying eyes of government...Almost all the intimate details of one's personal life may be revealed by what is placed in the trash, including personal matters which would cover the gamut from how one's alimentary canal functions to the brand or quantity of liquor consumed in the household.

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\* U. S. Constitution, Fourth Amendment and Wisconsin Constitution, Article 1, Section 11: "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."

Furthermore, Heffernan wrote, people must dispose of garbage. Since they know that the purpose of garbage collection is destruction, it is reasonable, he wrote, that people have an expectation of privacy and an expectation that the garbage will be handled in the usual manner, without interception by state agents.