

## CONTROLLING LEGAL PRINCIPLES

### *Free Exercise Clause Decision – The “Contemplation of Justice” Schneckloth v. Bustamonte, 412 U.S. 218 (1973)*



But the Fourth and Fourteenth Amendments require that a consent not be coerced, by explicit or implicit means, by implied threat or covert force. For no matter how subtly the coercion was applied, the resulting "consent" would be no more than a pretext for the unjustified police intrusion against which the Fourth Amendment is directed. In the words of the classic admonition in *Boyd v. United States*, 116 U. S. 616, 116 U. S. 635:

*"It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close*

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and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. ***It is the duty of courts to be watchful for the constitutional rights of the citizen and against any stealthy encroachments thereon.***"

Conversely, if, under all the circumstances, it has appeared that the consent was not given voluntarily -- that it was coerced by threats or force, or granted only in submission to a claim of lawful authority -- then we have found the consent invalid and the search unreasonable. See, e.g., *Bumper v. North Carolina*, 391 U.S. at 391 U. S. 548-549; *Johnson v. United States*, 333 U. S. 10; *Amos v.*

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Thoughts, Words and Actions for Plaintiff's Quintessential Rights of the First Amendment:  
*Truths that manifest Life, Liberty & Pursuit of Happiness pursuant to the Free Exercise Clause*

United States, 255 U. S. 313. In *Bumper*, a 66-year-old Negro widow, who lived in a house located in a rural area at the end of an isolated mile-long dirt road, allowed four white law enforcement officials to search her home after they asserted they had a warrant to search the house. We held the alleged consent to be invalid, noting that,

"[w]hen a law enforcement officer claims authority to search a home under a warrant, he announces, in effect, that the occupant has no right to resist the search. The situation is instinct with coercion -- albeit colorably lawful coercion. **Where there is coercion, there cannot be consent.**"

391 U.S. at 391 U. S. 550.