

CONTROLLING LEGAL PRINCIPLES

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



"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

Page 412 U. S. 229

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.***"

"[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.