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By **Daigle Law Group**

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*United States v. John* is a case that deals with search and seizure in relation to a trespasser's supposed expectation of privacy.<sup>1</sup> The district court denied the Defendant's motion to suppress the evidence based on Fourth Amendment grounds, and the First Circuit Court of Appeals affirmed the judgment, holding that the denial to suppress was proper.

On November 10, 2018, law enforcement officers were dispatched to the residence of Nichelle Brison following a report of a domestic dispute. Somerville police officers arrived at the scene of a Massachusetts apartment complex where they found the owner of the apartment, Brison, her former boyfriend, Howard John, and their six-year-old son. Brison's former boyfriend previously lived in the apartment with Brison and their son but arrived unannounced to gather some possessions that he had left behind. Upon his unexpected arrival, Brison and John began to argue, which resulted in John assaulting Brison. The officers discovered Brison with facial injuries and her young son with a hand injury. The child claimed that John had cut him and told the officers that John was in possession of a firearm. Officers arrested John for domestic assault and battery and took him to the station.

Brison signed a consent form allowing the officers to search her apartment. The police found a black case on the kitchen table with fresh blood on it. Inside the case, officers found an AR-15 rifle's lower receiver, two magazines loaded with 30 rounds of 5.56mm ammunition, three rifle scopes, two clips of 7.62mm ammunition, and other items.

Facing charges for being a felon in possession of a firearm, John argued that Brison's consent to search the black case containing firearms was invalid, as he retained a reasonable expectation of privacy in the case. John contended that suppressing evidence from the case search would leave insufficient information to support probable cause for the subsequent search of his car.

The district court rejected John's motion, concluding that John's presence in the apartment was illegitimate and therefore, he did not have a reasonable expectation of privacy in his black case. John appealed the decision to the First Circuit Court of Appeals.

The First Circuit Court of Appeals affirmed the judgment of the district court, holding that the denial to suppress was proper.

## Analysis and Implications

The court began their analysis by reviewing the requirements necessary to claim a Fourth Amendment violation. A defendant making a Fourth Amendment claim must demonstrate a legitimate expectation of privacy in the searched location or item. This standard relies on a two-part inquiry: first, whether the person exhibits an actual subjective expectation of privacy, and second, whether that expectation is one that society is prepared to recognize as objectively reasonable. The court emphasized that in conducting this analysis, Courts examine the totality of the circumstances. In looking at the totality here, the court considered all relevant factors, such as trespasser status, length of time the item was left on the premises, and potential danger posed by the items in question.

The First Circuit, without deciding whether John had an actual, subjective expectation of privacy in the black case, ruled that John did not have an objectively reasonable expectation of privacy. This was due to the fact that John lacked permission to be in Brison's apartment and store the black case there. The court determined that John was a trespasser in Brison's apartment, where he left the black case without her consent. The court recognized the difference between evidence found in plain view and evidence in a closed container but found that the totality of the circumstances still supported the district court's decision to deny the suppression of the evidence.

As society does not recognize trespassers' privacy expectations, the court held that John could not reasonably expect Brison or others not to open the unlocked case, particularly given his own actions that contributed to Brison's concern for her safety. Consequently, the court upheld the district court's denial of John's motion to suppress the evidence obtained from the black case and the subsequent search.

## Conclusion

*United States v. John* emphasizes the importance of understanding the complex factors considered in assessing an individual's reasonable expectation of privacy. By carefully examining the totality of the circumstances, law enforcement officers can better navigate complex search and seizure situations and ensure that evidence collected is admissible in court.

*United States v. John*, 59 F.4th 44 (1st Cir. 2023)