

**CASE NO. 17-001  
SUPREME COURT**

**MYTTON V. STATE OF MINNESOTA**

**Parties:**       **Appellant – Jack Mytton**  
                      **Respondent – State of Minnesota**

**Issues:**

- (1)     Whether the use of a helicopter by law enforcement to observe and take pictures of Mytton's farm was constitutional.
  
- (2)     Whether a Sheriff's deputy jumping the fence and finding marijuana on Mytton's farm was an unconstitutional search.

**Facts:**

The Anoka County Sheriff's department was contacted on September 16, 2004 and given a report that a man named Jack Mytton owned a farm of approximately fifteen acres, where he grew a large quantity of marijuana. Acting on this information, the Anoka County Sheriff's Department located the farm. After arriving at the farm the Sheriff's department found that the farm was completely surrounded by a twelve-foot stockade fence. The fence completely prevented any observation of the contents of the fields. On the next day deputies from the Anoka County Sheriff's department flew over the property in a helicopter to take photographs of the property.

The deputies were initially unable to determine whether there was any marijuana growing in the fields around the house. As a result they had the helicopter hover at a height of approximately 200 feet above the ground. Using a pair of binoculars and a camera with a telephoto lens, the deputies observed and took pictures of what was growing in the fields. Mostly what was seen appeared to be corn. The only other significant feature observed on the property was the layout of the crops in relation to the house. Other than the fence surrounding the entire property, there was nothing to separate the house from the surrounding fields. The deputies testified that with the assistance of the binoculars, the officers believed that they saw marijuana, but that they were unsure.

The same night a Sheriff's deputy returned to the property. He climbed the fence surrounding the property. He testified that he saw that the entire fifteen acres of property appeared to be planted with corn. However, upon closer inspection he saw several rows of marijuana planted among the corn stalks. These observations formed the basis for a warrant to search Mytton's property. As a result, the property was searched, marijuana was found, and Mytton was charged with growing *cannabis sativa*, a Schedule I controlled substance.

The trial court concluded that the Anoka County Sheriff's Department did not conduct a search by flying over the property in the helicopter. Therefore, the fact that there was no warrant before conducting the helicopter fly-over did not make it unconstitutional. The trial court also found that the deputy's warrantless search of the property on foot was proper due to the fact that the crops around the house were open fields as opposed to inside a dwelling or structure.

### **Authorities:**

The following is a brief summary of some things you should think about and keep in mind when you read the cases and as you prepare your briefs and arguments. You are not limited to these points. Instead, they are just good starter questions to think about. You will also notice some cases are available on the YIG website. These cases represent some of the materials you can use to begin your research. Other case citations are below but are not included in this packet—you will need to seek out these case materials to complete your briefs and oral arguments (denoted by \*\*)

### **Summary:**

#### Issue #1 – Constitutionality of Use of Helicopter and Photos

Did the flight of the helicopter over the property and the use of binoculars and a telephoto lens constitute a search under the Fourth Amendment?

Under what conditions can law enforcement use aerial observation to look at private property?

What limits are placed on viewing property without a warrant?

Does the fact that the property was surrounded by a fence change analysis of the aerial observation?

Is the property more like a personal residence or more like a commercial property (property used for business purposes) and how does this characterization affect analysis of the search's validity.

#### Issue #2 – Constitutionality of Search

Does such action require a warrant?

Is the area around Mytton's home where the Sheriff's Deputy searched curtilage or open fields?

Does the purpose of the fields have any bearing on whether the search was constitutional?

**Cases and Related Materials:**

Florida v. Riley, 488 U.S. 445 (1989)

State v. Nolan, 356 N.W. 2d 670 (1984)

Hester v. U.S., 265 U.S. 57 (1924)

\*\*California v. Ciraolo, 476 U.S. 207 (1986)

\*\*U.S. v. Pinson, 24 F3d. 1056 (8th Cir.1995)

\*\*Dow Chemical Co. v. U.S., 476 U.S. 227 (1986)

\*\*U.S. v. Dunn, 480 U.S. 294 (1987)

\*\*US Constitution, Amendment IV