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===== Start of Answer #3 (638 words) =====

State v. Dora

1. Drug-Detection Dog's Reaction

4th Amendment - Search and Seizure

The 4th prohibits unreasonable searches and seizures. The 4th applies to the states via the Incorporation doctrine. For a search or seizure to be valid under the 4th it requires: 1) governmental conduct, 2) a reasonable expectation of privacy, and 3) a warrant.

Governmental Conduct

There must be governmental conduct for the 4th to apply. Here, there is governmental conduct because police dogs under the direction of a police officer are treated and classified as police officers themselves. Often times, when a police dog is killed and the death was caused by the defendant, the defendant would be given the same punishment as if he had killed a human officer. Therefore, this element is met.

Reasonable Expectation of Privacy

The defendant must have a reasonable expectation of privacy in the place search to be brought claim under the 4th. Here, D has a REOP because the dog sniff and reaction was at her house, a private place where she has an ownership interest. Therefore, this element is met.

Warrant Requirement

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Police must have a warrant to make a search under the 4th. Here, O did not have a warrant. Therefore, unless an exception applies the dog's reaction was a unreasonable search.

Warrantless Exception-Plain View

Plain view applies where the police are legitimately positioned and the criminality is readily apparent. Here, the dog's reaction fails plain view because, first, they weren't legitimately positioned and that's because they at D's home on the bases of a "hunch," that means that O could not reasonable articulate why he thought D was selling drugs. Next, he ordered the dog onto the porch further trying to better position himself so he could take advantage of the dog's superior smelling ability. Lastly, the meth wasn't readily appanrent because he was outside the residence and didn't know what was on the inside and he had to use the superior smelling ability of dog to alert him that there might be meth in the house. Therefore, plain view fails.

Conclusion

The court should throw the drug-detection dogs reaction as a unreasonable search under the 4th.

2. The Small Box

4th Amendment - Search and Seizures

See rules and analysis above.

Warrantless Exceptions - Plain View

See rules above. Here,

Conclusion

The court should throw out the small box as a unreasonable search and seizure under the 4th.

3. The Overheard Conversation

4th Amendment - Search and Seizure

The 4th prohibits unreasonable searches and seizures. The 4th applies to the states via the Incorporation doctrine. For a search or seizure to be valid under the 4th it requires: 1) governmental conduct, 2) a reasonable expectation of privacy, and 3) a warrant.

Governmental Conduct

There must be governmental conduct for the 4th to apply. Here, there is governmental conduct because O is a police officer. Therefore, this element is met.

Reasonable Expectation of Privacy

The defendant must have a reasonable expectation of privacy in the place search to be bring claim under the 4th. Here, D has a REOP of privacy because the overheard conversation, which amounts to a search, was done at her home, which she owned. Therefore, this element is met.

Warrant Requirement

See rule and analysis above.

Warrantless Exception-Plain View

See rule above. Here, again, O was not lawfully positioned because went beyond the scope of the curtilage rule when he crouched under D's window, when he was first there on the basis of only a hunch and he substantially violated her right to privacy because it's not the expectation of any homeowner to have the police snooping around your home looking for more evidence to arrest and charge you with. Therefore, this fails.

Conclusion

The court should throw out the overheard conversation because it was an unreasonable search under the 4th.

Question #3 Final Word Count = 638

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END OF EXAM