

Mason Vs. U.S

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Court : US Supreme Court

Decided On : 1973

Appeal No. : 414 U.S. 941

Appellant : Mason

Respondent : U.S

Judgement :

MASON v. U.S - 414 U.S. 941 (1973)

U.S. Supreme Court MASON v. U.S , 414 U.S. 941 (1973)

414 U.S. 941

Robin Ennette MASON

v.

UNITED STATES.

No. 72-6950.

Supreme Court of the United States

October 15, 1973

On petition for writ of certiorari to the United States Court of Appeals for the Ninth Circuit.

The petition for a writ of certiorari is denied.

Mr. Justice DOUGLAS, dissenting.

Petitioner, while attempting to enter the United States at San Ysidro, California, was subjected to a vaginal search which yielded approximately one ounce of heroin and petitioner

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was convicted of importing the substance. Conceding that the police were justified in causing her to submit to a body cavity search under the present 'clear indication' standard,¹ petitioner urges the adoption of a rule that body cavity searches must be authorized by a warrant when time permits. It has long been held that the ordinary necessity for obtaining a warrant prior to a domestic search does not apply with full force to border searches. See *Boyd v. United States*, [116 U.S. 616, 623](#) ; *Carroll v. United States*, [267 U.S. 132, 154](#) . But the stark contrast between permitting a minor customs official to make a warrantless search of baggage and permitting that same official to determine the instances in which intrusive and degrading vaginal and rectal searches will be conducted demonstrates the necessity for a delineation by this Court of the exact parameters of the border search exception. [[Footnote 2](#)] The record in *Thompson v. United States*, 9 Cir., [411 F.2d 946](#) , 948, indicated that 80% to 85% of all those subjected to body cavity searches at the border are innocent of the suspected wrongdoing. This statistic shows the desirability of positing ultimate decision-making responsibility for this type of highly intrusive search with a 'neutral and detached magistrate' rather than a zealous officer 'engaging in the often competitive enterprise of ferreting out crime.'³ Footnotes

[Footnote 1](#) *Rivas v. United States*, 9 Cir., [368 F.2d 703](#) , 710.

[Footnote 2](#) Judges Ely and King indicated acceptance of petitioner's proposition but felt constrained by the existing law in the Ninth Circuit. A number of commentators have also argued for a warrant requirement. Note, *Search and Seizure at the Border-The Border Search*, 21 Rutgers L.Rev. 513 (1967).

Comment, Intrusive Boarder Searches-Is Judicial Control Desirable?, 115 U.Pa.L.Rev. 276 (1966).

[Footnote 3](#) Johnson v. United States, [333 U.S. 10, 14](#) .

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