

Reports dif. from streets

Fox (Ant Fla AG)

C/Asks of Fla. erred in not accepting DC findings.

John notes that C/Asks found a concession by the State that Resko was not free to leave.

Frey (SG)

Issue was of great importance

lower Ct applied wrong standard

- ~~the test~~ it overlooked def. but a "limited request" & an arrest.
(Nich v Summer)

~~There was~~

The "search" was consensual.

There was "reasonable suspicion justifying investigation"

"Free to leave"
is wrong test.

Klein (Reck)

Deny any consent to open bags
No justification for request to
see ticket & driver's license.

Movement to private room could
have been ~~consensual~~.

"Lapse of time" is not determinative
- as in Summer

Need not reach "arrest" issue
at time of search. Can decide
on ground that consent to search
was coerced.

There were no grounds for
a Terry stop. Profile never
enough.

In Mendenhall, ticket was
handed back & no ~~returnable~~ ^{require} of luggage

Can do a "dog sniff" of luggage.

~~It is~~

"OK to hold ticket during the
questioning on spot is OK"

There are
two imp.
points

Responding
to PPS

The Chief Justice

Rev.

Trial Ct found consent to open bag.

Royer was properly stopped & consented to everything else

Justice Brennan

Aff'ix

Seizure maturely into an arrest.

Ticket & auto license never returned

Royer was not told he was free to leave.

Assuming there was a valid Terry stop, the sub. conduct violated 4th

Justice White

Aff'ix

Fla Ct applied properly rules of laws.

There was an arrest. Conceded Royer was not free to go.

We may not be bound by this - in mixed finding of law & facts.

Need not get into Terry stop issue

Justice Marshall

Aff'm

Agrees with WQB & BRW

Justice Blackmun

Rev.

** Trial judg. found voluntary stop
& Clapp accepted this.*

*Drug trade & corrupt morals of other
country. In Mendenhall did it reach
"seizure" issue. **

*~~Agree~~ Agree there was a "seizure" here.
Suspect was not free to go when
stopped. * There was reasonable suspicion.*

*Whereas the "line" may be drawn,
It went too far. ~~There~~ Police
acted*

Justice Powell

Aff'm

Justice Rehnquist

Rev

Agree with H.A.B.

There is a consent. Royer did not ask to leave.

Drug courier people in imp.

Fla Ct was grossly erroneous.

Justice Stevens

Off m

Close to views of L.F.P.

Have to go thru the various steps. Proper are relevant. Officer may stop people & ask Qs. This is not a seizure. Terry.

But here (as I had said) the notion of consent is unrealistic when Royer was in the storage room, & officer had his baggage & tickets.

FBI Manual OK

Justice O'Connor

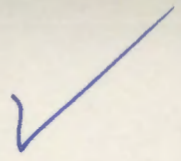
Rev

There was consent all the way.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

October 15, 1982



RE: No. 81-2146 Florida v. Royer

Dear Chief:

Byron has agreed to undertake the opinion for the
Court in the above.

Sincerely,

Bill

The Chief Justice

Copies to the Conference