

[Cite as *State v. Raab*, 2001-Ohio-3928.]

**COURT OF APPEALS  
ELEVENTH DISTRICT  
ASHTABULA COUNTY, OHIO**

J U D G E S

STATE OF OHIO,  
  
Plaintiff-Appellant,

HON. WILLIAM M. O'NEILL, P.J.,  
HON. ROBERT A. NADER, J.,  
HON. DIANE V. GRENDELL, J.

- vs -

CHRISTOPHER M. RAAB,  
  
Defendant-Appellee.

ACCELERATED  
CASE NO. 2001-A-0010

CONCURRING OPINION

GRENDELL, J.

Patrolman Kaselak should be commended for his initial actions. He was looking out for public safety when he decided to question appellee. Appellee, standing, facing a closed building with his hands stuffed up his shirt suggested to Patrolman Kaselak that the situation did not seem right, so he approached appellee for the purpose of a consensual encounter. A consensual encounter is not a seizure, so no Fourth Amendment rights are invoked. *Florida v. Bostick* (1991), 501 U.S. 429. During a consensual encounter the individual must be free to terminate the encounter. *Id.* at 439. However, when Patrolman Kaselak searched appellee, this escalated the situation from a consensual encounter to a

seizure, invoking appellee's Fourth Amendment rights.

Therefore, at this juncture, Patrolman Kaselak violated appellee's Constitutional rights because he did not have reasonable suspicion to justify the search of appellee.

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JUDGE DIANE V. GRENDALL