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SJC-10188

COMMONWEALTH vs. CHRISTOPHER E. AUGELLO
(and a companion case¹).

November 20, 2008.

Constitutional Law, Search and seizure, Privacy. Search and Seizure, Expectation of privacy, Container. Privacy.

In Commonwealth v. Augello, 71 Mass. App. Ct. 105 (2008), the Appeals Court affirmed a District Court judge's order allowing the defendants' motion to suppress evidence found during a warrantless search of their apartment. Specifically, the court rejected, as did the motion judge, the Commonwealth's claim that a certain suitcase found by the officers inside the apartment had been abandoned by the defendants -- thereby eliminating any reasonable expectation of privacy they may have otherwise had in the suitcase and its contents -- when they denied to the officers that the suitcase was theirs. We granted the Commonwealth's application for further review.

We have thoroughly reviewed the record and the parties' arguments and agree with the Appeals Court's analysis. The order allowing the motion to suppress is affirmed.

So ordered.

Joseph A. Pieropan, Assistant District Attorney, for the Commonwealth.

Jeremia A. Pollard for Christopher E. Augello.

David A. Pixley, for Roger J. Arigoni, III, was present but did not argue.

¹ Commonwealth vs. Roger J. Arigoni, Third.