

Class 12: National Security Law and FISA

Last Time

Substantive International

Ivanov

Facts

Russian Hackers

First, broke into Lightrealm.com

ISP in Kirkland, WA

CT-based website host and credit card processor

Then, broke into OIB

Communicated with OIB through compromised Lightrealm account

Threatening email on 591

Parties agree: Ivanov physically in Russia the entire time

Review

Counts

One: Conspiracy

Two: 1030(a)(4)

Didn't really focus on this one in this class

Three: 1030(a)(2)(C)

Six: 1030(a)(7)

Didn't really focus on this one in this class

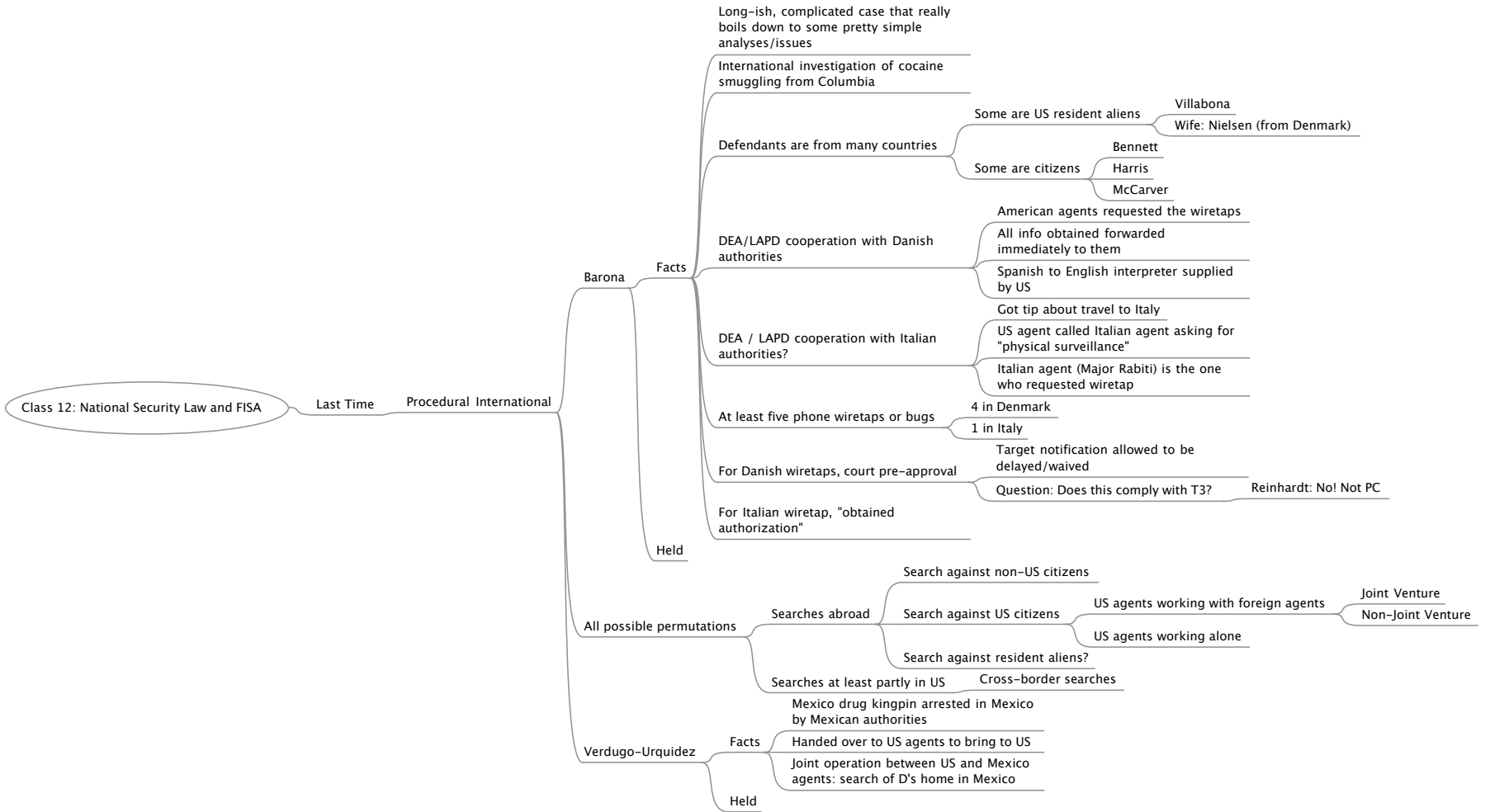
Seven: 1951(a) Extortion

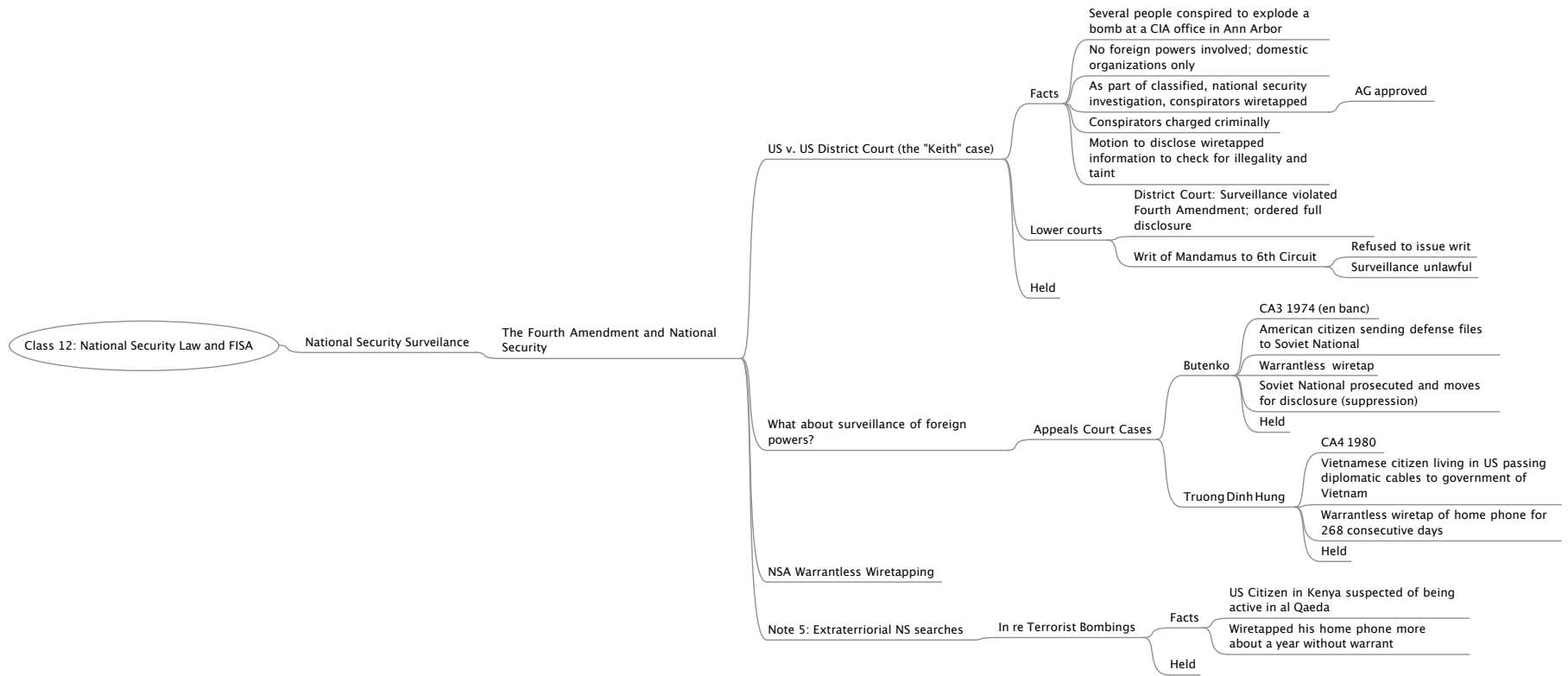
Never mentioned before in this class

Eight: 1029(a)(3)

Stolen password possession

Held





Class 12: National Security Law and FISA

National Security Surveillance

The Fourth Amendment and National Security

US v. US District Court (the "Keith" case)

Facts

- Several people conspired to explode a bomb at a CIA office in Ann Arbor
- No foreign powers involved; domestic organizations only
- As part of classified, national security investigation, conspirators wiretapped
- Conspirators charged criminally
- Motion to disclose wiretapped information to check for illegality and taint

AG approved

Lower courts

District Court: Surveillance violated Fourth Amendment; ordered full disclosure

Writ of Mandamus to 6th Circuit

- Refused to issue writ
- Surveillance unlawful

Held

What about surveillance of foreign powers?

Appeals Court Cases

Butenko

- CA3 1974 (en banc)
- American citizen sending defense files to Soviet National
- Warrantless wiretap
- Soviet National prosecuted and moves for disclosure (suppression)
- Held

Truong Dinh Hung

- CA4 1980
- Vietnamese citizen living in US passing diplomatic cables to government of Vietnam
- Warrantless wiretap of home phone for 268 consecutive days
- Held

NSA Warrantless Wiretapping

Note 5: Extraterritorial NS searches

In re Terrorist Bombings

Facts

- US Citizen in Kenya suspected of being active in al Qaeda
- Wiretapped his home phone more about a year without warrant

Held

