Different Mistakes in the Law and the Difference They Make

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There are various sorts of mistakes one might make regarding the law. For instance, one might incorrectly believe that there is a law when there isn’t one or that there is no law when there is. One might also know the law but incorrectly appraise the facts covered by the law. The former mistake is traditionally classified as a legal mistake while the latter is generally referred to as a factual mistake. Both those under the law and those charged with enforcing the law are capable of making both sorts of mistakes. As might well be expected, however, the consequences of a citizen’s legal or factual mistake might be quite distinct from those of the executive officer. Perhaps contrary to common belief concerning the protections afforded the accused, it is more likely for the government to forgive empirical and legal mistakes made by governmental officers than it is for the government to forgive those same mistakes made by private parties in the role of the criminally accused. Mistakes made by the former group may have no effect upon their endeavors, if certain conditions obtain. Mistakes by the latter group, with two exceptions, will generally have significant legal effects. To investigate the varied ramifications in light of two recent United States Supreme Court cases shall be the goal of this paper.

To that end, the first section will discuss the nature of both factual and legal mistakes made by a private party. This section will endeavor to illustrate and explain the aforementioned mistakes through the hypothetical case against Lady Eldon. The second section will attempt to accurately relate recent holdings of the United States Supreme Court dealing with these various mistakes made by the enforcement section of the executive branch of government. The final section will be concerned with the effect of the various types of mistakes made by the respective parties upon the admissibility of other evidence discovered in the course of the executive mistake.

I.

A classic illustration of a private person’s mistake of fact concerns the mythical travails of Lady Eldon. Lady Eldon, it seems, wishes to bring into England from France expensive French lace (Kadish and Schulhofer 1989). Not wishing to suffer the English duty on French lace, Lady Eldon endeavors to conceal the lace from Customs by smuggling the lace into England. Upon arriving in Dover, Customs discovers the clumsily hidden lace. However, upon further investigation it is discovered that it is Lady Eldon who has been deceived. Lady Eldon paid dearly for what she was given to