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CIVIL RIGHTS:

Arrest; Retaliation for Protected Speech

Lozman v. City of Riviera Beach, Florida

USSC, No. 17-21, 6/18/18

After Fane Lozman towed his floating home into a slip in a marina owned by the city of Riviera Beach, he became an outspoken critic of the City's plan to use its eminent domain power to seize waterfront homes for private development and often made critical comments about officials during the public-comment period of city council meetings. He also filed a lawsuit alleging that the City Council's approval of an agreement with developers violated Florida's open-meetings laws.

In June 2006, the Council held a closed-door session, in part to discuss Lozman's lawsuit. He alleges that the meeting's transcript shows that councilmembers devised an official plan to intimidate him, and that many of his subsequent disputes with city officials and employees were part of the City's retaliation plan. Five months after the closed-door meeting, the Council held a public meeting. During the public-comment session, Lozman began to speak about the arrests of officials from other jurisdictions. When he refused a councilmember's request to stop making his remarks, the councilmember told the police officer in attendance to "carry him out." The officer handcuffed Lozman and ushered him out of the meeting.

The City contends that Fane was arrested for violating the City Council's rules of procedure by discussing issues unrelated to the City and then

refusing to leave the podium. Lozman claims that his arrest was to retaliate for his lawsuit and his prior public criticisms of city officials. The State's attorney determined that there was probable cause for his arrest, but decided to dismiss the charges. Lozman then filed suit under 42 U. S. C. §1983, alleging a number of incidents that, under his theory, showed the City's purpose was to harass him, including by initiating an admiralty lawsuit against his floating home.

READ THE COURT OPINION HERE:
https://www.supremecourt.gov/opinions/17pdf/17-21_p8k0.pdf

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CIVIL RIGHTS:

Association and Speech Rights

Mote v. Walthall

CA5, No. 17-40754, 8/31/18

Police Officer Marcus Mote filed suit under 28 U.S.C. § 1983 for wrongful termination for exercising his First Amendment rights in connection with his efforts to organize a police association of members of the City of Corinth, Texas, Police Department.

READ THE COURT OPINION HERE:
http://www.ca5.uscourts.gov/opinions/pub/17/17-40754-CV0.pdf

CIVIL RIGHTS:

Color of Law

Robinett v. City of Indianapolis

CA7, No. 17-2609, 7/9/18

After Indianapolis police officers Ryan Anders and Kimberlee Carmack divorced, Anders stalked and threatened Carmack. The police department eventually opened a criminal investigation and placed a GPS tracking device on Anders's car with a warning mechanism to alert Carmack if he passed nearby. Carmack spent nights away from home so Anders could not locate her. Anders eventually discovered the device on his car and called Scott Robinett—his friend and fellow police officer—who examined it and confirmed that the device was a GPS. Robinett did not tell investigators that Anders had discovered the device.

Days later, Anders drove to Carmack's house and killed her and himself. She was not alerted to his approach. Carmack's estate sued the city, Robinett, and others.

READ THE COURT OPINION HERE:
https://cases.justia.com/federal/appellate-courts/ca7/17-2609/17-2609-2018-07-09.pdf?ts=1531171822

CIVIL RIGHTS:

Deadly Force; Reputation of Being Aggressive and Violent Toward Law Enforcement

Wenzel v. Storm

CA8, No. 12-2028, 8/9/18

After Bourbon, Missouri, Police Officer Carl Storm shot and killed Gary Wenzel, Wenzel's family filed suit against Storm in federal district court. Plaintiffs alleged a claim under 42 U.S.C. § 1983, asserting that Storm had violated Wenzel's Fourth Amendment right to be free from excessive force.

READ THE COURT OPINION HERE:

http://media.ca8.uscourts.gov/opndir/18/08/172028P.pdf

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CIVIL RIGHTS:

Fourth Amendment Seizure; Accidental Shooting

Gorman v. State of Mississippi

CA5, No. 17-50515, 6/7/18

During a preliminary safety briefing before a firearms training exercise hosted by the Mississippi Gaming Commission, instructor and former Commission Special Agent Robert Sharp forgot to replace his real firearm with a "dummy" firearm. As a result, Sharp accidentally discharged his real firearm against fellow instructor and Mississippi Gaming Commission Special Agent John Gorman. Gorman subsequently died from the gunshot wound to his chest.

READ THE COURT OPINION HERE:

http://www.ca5.uscourts.gov/opinions/pub/17/17-60515-CV0.pdf

CIVIL RIGHTS:

Fourth Amendment Seizure; Accidental Shooting

Mason-Funk v. City of Neenah

CA7, No. 17-3380, 7/10/18

Brian Flatoff took hostages at a Neenah, Wisconsin motorcycle shop. After Flatoff threatened to start shooting, police unsuccessfully attempted an entry. Hostage Funk escaped out the back door of the shop. He was carrying a concealed weapon and carried it lowered with both hands. Hostage Funk was shot and killed in the alleyway by two police officers, who mistakenly believed Funk was Flatoff. Funk's wife filed suit under 42 U.S.C. 1983 against the officers and the city, alleging that both officers used unreasonable and excessive force against Funk.

READ THE COURT OPINION HERE:

http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2018/D07-10/C:17-3380:J:Bauer:aut:T:fnOp:N:2184309:S:0

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CIVIL RIGHTS:

Excessive Force; Qualified Immunity

Stephania v. City of Riverside

CA9, No. 16-55941, 5/18/18

On December 22, 2011, Michael Easley was shot three times by Officer Silvio Macias following a traffic stop. Based on his resulting injuries, which include permanent physical disability and paralysis, Easley filed this action alleging that Macias violated 42 U.S.C. § 1983 through the use of excessive force.

READ THE COURT OPINION HERE:

http://cdn.ca9.uscourts.gov/datastore/opinions/2018/05/18/16-55941.pdf

CIVIL RIGHTS:

Excessive Force;
Denial of Qualified Immunity
Rokusek v. Jansen
CA8, No. 17-3203, 8/8/18

On the night of April 14, 2015, Cody Jansen arrested Troy Rokusek for driving while impaired and transported him to a garage at the courthouse in Clay County, South Dakota. Once there, Jansen removed the handcuffs from Rokusek, who consented to having his blood drawn. Though a medical technician was in the garage to perform the blood draw, Rokusek preferred a more sanitary environment and withdrew his consent. Jansen ordered Rokusek to stand so that he could handcuff him again before obtaining a warrant to draw blood. Despite Jansen's three requests, Rokusek refused to comply. Jansen, who was 6'4" and weighed at least 180 pounds at the time of the incident, pulled Rokusek, who was 5'6" and weighed 135 pounds, to a standing position. He then placed him in a "double-chicken-wing hold" by putting his arms around Rokusek's arms and interlocking them behind Rokusek's back. As is evident from a video recording of the incident, the hold immobilized the much smaller Rokusek. The two remained in this position until Jansen suddenly threw Rokusek face-first to the ground. Because his arms were immobilized, Rokusek was unable to brace his fall and lost two teeth.

READ THE COURT OPINION HERE:
http://media.ca8.uscourts.gov/opndir/18/08/173203P.pdf

CIVIL RIGHTS:

Minimal Investigation
Ross v. City of Jackson
Missouri, CA8, No. 17-1390, 7/26/18

On January 25, 2015, James Ross was a 20-year-old resident of Cape Girardeau, Missouri, and an active user of Facebook. One of Ross's Facebook friends posted a meme that showed a number of different firearms below the title "Why I need a gun." Above each type of gun was an explanation of what the gun could be used for—e.g., above a shotgun: "This one for burglars & home invasions"; above a rifle with a scope: "This one for putting food on the table"; and above an assault rifle: "This one for self-defense against enemies foreign & domestic, for preservation of freedom & liberty, and to prevent government atrocities." Ross interpreted this post as advocating against gun control measures. Ross, an advocate in favor of gun control measures, commented on the post: "Which one do I need to shoot up a kindergarten?" Following a police investigation and charges, Ross filed a lawsuit under 42 U.S.C. § 1983 alleging that the officers had violated his constitutional rights under the First and Fourth Amendments.

READ THE COURT OPINION HERE:
http://media.ca8.uscourts.gov/opndir/18/07/171390P.pdf

CIVIL RIGHTS:

Order to Stop Praying

Sause v. Bauer

USSC, No. 17-742, 6/28/18

Mary Ann Sause filed suit (42 U.S.C. 1983) alleging that officers visited her apartment in response to a noise complaint, gained admittance, and engaged in abusive conduct before citing her for disorderly conduct and interfering with law enforcement. She alleged that at one point she knelt and began to pray but an officer ordered her to stop. She also alleged another officer refused to investigate her complaint that she had been assaulted by residents of her apartment complex and threatened to issue a citation if she reported this to another police department. She claimed that the police chief failed to investigate the officers' conduct; and that the mayors were aware of unlawful conduct by officers. Sause asserted a violation of her First Amendment right to the free exercise of religion and her Fourth Amendment right to be free of unreasonable search or seizure.

READ THE COURT OPINION HERE:

https://www.supremecourt.gov/opinions/17pdf/17-742_c185.pdf

CIVIL RIGHTS:

Qualified Immunity; Carjacking, High Speed Chase, and Police Shooting

Bland v. City of Newark

CA3, No. 17-2228, 8/15/18

Newark Police received a report that an Audi automobile had been carjacked at gunpoint. Three hours later, State Troopers spotted the Audi. Corey Bland was behind the wheel. They activated their police lights. Bland drove recklessly, running red lights and shutting off his headlights, reaching speeds exceeding 100 miles per hour. Several officers joined the pursuit. Bland drove the wrong way down a one-way street, colliding with occupied police vehicles, which struck an unoccupied car. The cars became entangled. Officers surrounded the Audi and ordered Bland to surrender, then fired 28 shots, none of which hit Bland. Bland revved the engine and freed the Audi, striking the police car again. He drove over a curb and through a public park, then continued to speed through Newark with his lights off. During the chase, a police car struck an occupied civilian vehicle. Bland eventually drove to an intersection where an unmarked police vehicle rammed the Audi, sending the Audi into scaffolding that surrounded a school. It became entangled. Troopers surrounded the Audi and fired their weapons. Bland denies that the troopers shouted any commands or that he made evasive movements. Bland was shot 16-18 times and suffered a traumatic brain injury, respiratory failure, vision loss, and facial fractures. No officer observed Bland with a weapon. Bland sued under 42 U.S.C. 1983.

READ THE COURT OPINION HERE:

http://www2.ca3.uscourts.gov/opinarch/172228p.pdf

SEARCH AND SEIZURE:

Abandoned Cell Phone
State of South Carolina v. Brown
SCSC, No. 27814, 6/13/18

In this case, the issue before the South Carolina Supreme Court was whether the digital information stored on a cell phone may be abandoned such that its privacy is no longer protected by the Fourth Amendment.

READ THE COURT OPINION HERE:
https://www.sccourts.org/opinions/HTMLFiles/SC/27814.pdf

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SEARCH AND SEIZURE:

Affidavit Lacks Date of Crime;
Good Faith Exception
Edmonds v. United States
CA7, No. 17-2734, 8/3/18

Chicago Officer Frano obtained the approval of the state's attorney's office and obtained a search warrant based on a tip from a confidential informant, who claimed to have purchased heroin from Edmond at 736 North Ridgeway. Frano had driven the informant past the building to confirm the location and showed the informant a photograph to confirm Edmond's identity. The complaint specified the date of the tip but not the date of the alleged drug sale. Frano attested that the informant had provided dependable information about narcotics activities for five years. The complaint did not mention that the informant was facing felony drug charges or that a state court had revoked his bail and issued an arrest warrant. Officers searched the Ridgeway apartment and recovered loaded handguns, heroin, and cocaine. Edmond was not present but was arrested later.

Before trial, Edmond unsuccessfully moved to suppress his post-arrest statements, claiming that he did not waive voluntarily his Miranda rights. He was convicted of firearm and heroin charges but acquitted of a cocaine charge. Following his conviction, Mr. Edmond filed a motion under 28 U.S.C. § 2255, seeking collateral relief from federal custody. He claimed that he had been deprived of the effective assistance of counsel because his trial attorney had not filed a motion to exclude the evidence obtained from the search.

READ THE COURT OPINION HERE:
https://cases.justia.com/federal/appellate-courts/ca7/17-2734/17-2734-2018-08-03.pdf?ts=1533324623

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SEARCH AND SEIZURE:

Border Searches
United States v. Touset
CA11, No. 17-11561, 5/23/18

This appeal presents the question whether the Fourth Amendment requires reasonable suspicion for a forensic search of an electronic device at the border. Karl Touset appeals the denial of his motions to suppress child pornography found on electronic devices that he carried with him when he entered the country and the fruit of later searches.

READ THE COURT OPINION HERE:
http://media.ca11.uscourts.gov/opinions/pub/files/201711561.pdf

SEARCH AND SEIZURE:

Canine Sniff;
Curtilage and Common Hallway
State of Minnesota v. Edstrom, MN
Supreme Court, No. AR16-1382, 8/15/18

The question presented in this case is whether a warrantless narcotics-dog sniff in the hallway outside Cortney Edstrom's apartment violated his right to be free from unreasonable searches under the United States or Minnesota Constitution.

READ THE COURT OPINION HERE:
https://mn.gov/law-library-stat/archive/supct/2018/OPA161382-081518.pdf

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SEARCH AND SEIZURE:

Canine Search; Entry Without Command
United States v. Pulido-Ayala
CA8, No. 17-1371, 6/5/18

Did police violate the Fourth Amendment rights of Javier Pulido-Ayala when a police drug dog instinctively lunged into Pulido-Ayala's vehicle?

READ THE COURT OPINION HERE:
http://media.ca8.uscourts.gov/opndir/18/06/171371P.pdf

SEARCH AND SEIZURE:

Cell-Site Location Information;
Warrant Required to Access
Carpenter v. United States
USSC, No. 16-402, 6/22/18

Cell phones perform a variety of functions by continuously connecting to a radio antennas called "cell sites." Each time a phone connects to a cell site, it generates a time-stamped record known as cell-site location information (CSLI). Wireless carriers collect and store this information for their own business purposes. In this case, after the FBI identified the cell phone numbers of several robbery suspects, prosecutors were granted court orders to obtain the suspects' cell phone records under the Stored Communications Act. Wireless carriers produced CSLI for Timothy Carpenter's phone and the Government was able to obtain 12,898 location points cataloging his movements over 127 days—an average of 101 data points per day. Carpenter moved to suppress the data, arguing that the Government's seizure of the records without obtaining a warrant supported by probable cause violated the Fourth Amendment. The District Court denied the motion and Carpenter was convicted. The Sixth Circuit affirmed, holding that Carpenter lacked a reasonable expectation of privacy in the location information collected by the FBI because he had shared that information with his wireless carriers. The Supreme Court reversed, holding that the acquisition of Carpenter's cell-site records was a Fourth Amendment search.

READ THE COURT OPINION HERE:
https://www.supremecourt.gov/opinions/17pdf/16-402_h315.pdf

SEARCH AND SEIZURE:

Consent; Authority to Consent
Lastine v. State of Nevada
SCN, 134 Nev. Ad. Op. No. 66, 8/30/18

The Nevada Supreme Court held that law enforcement officers cannot justify a warrantless search of a bedroom inside a home by relying on the consent of a third party when the third party did not have authority to consent and the officers have little to no information about that third party's authority over the bedroom. At issue in this appeal was whether law enforcement officers cannot rely on the consent of a third party to search a room within a residence without making sufficient inquiries about the parties' living arrangements within that residence before conducting a warrantless search. The Supreme Court answered in the negative, holding that the district court erred in denying Lastine's motion to suppress the evidence obtained as a result of the illegal entry in this case and that the error was not harmless. The Court further directed law enforcement to gather sufficient information about the living arrangements inside the home to establish an objectively reasonable belief that the third party has authority to consent to a search before proceeding with that search without a warrant.

READ THE COURT OPINION HERE:
https://cases.justia.com/nevada/supreme-court/2018-73239.pdf?ts=1535650747

SEARCH AND SEIZURE:

Consent; Police Invited into Apartment Accompanied by Police Dog
United States v. Iverson
CA2, No. 16-3829-cr, 7/31/18

The Court of Appeals for the Second District held that there was no unreasonable search in violation of the Fourth Amendment where the undisputed evidence showed that Elijah Iverson expressly consented to the officers entering his apartment and the consent implicitly extended to the police dog. Since the officers and dog were lawfully in the apartment, Iverson had no legitimate or reasonable expectation of privacy in airborne particles bearing odors. The district court did not err in denying Iverson's motion to suppress.

READ THE COURT OPINION HERE:
http://www.ca2.uscourts.gov/decisions/isysquery/d32c59d2-1151-49e6-9b57-5dd6d9df9510/1/doc/16-3829_opn.pdf#xml=http://www.ca2.uscourts.gov/decisions/isysquery/d32c59d2-1151-49e6-9b57-5dd6d9df9510/1/hilite/

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SEARCH AND SEIZURE:

Consent; Plain View
United States v. Key
CA7, No. 16-3970, 5/14/18

Romeoville Police received a call from a Wisconsin mother who stated that her 15-year-old daughter (April) left Wisconsin with an unknown man and called her from a motel, wanting to come home. Officers went to the motel, which had a reputation for prostitution and drug problems. A clerk stated that there was one guest from Wisconsin and showed the officers a photocopy of

that guest's identification. The officers proceeded to the room, where the door was propped open. The officers knocked and Key—who matched the identification—answered. Key said April had gone to a restaurant. The officers asked if they could check the room for the girl; Key consented. Inside the room, the officers saw a tablet open to the website backpage.com, which was commonly used to post prostitution advertisements; a large number of prepaid credit cards; used and unused condoms; and multiple cellphones. Crayton, another young woman, was in the room. Crayton stated that she and April were prostituting and that Key was their pimp. They found April at the restaurant. Following Key's arrest, officers seized the tablet, credit cards, cellphones, and other evidence from the room. Key unsuccessfully moved to suppress the evidence. On appeal, he argues the district court should have suppressed evidence allegedly seized in violation of the Fourth Amendment.

READ THE COURT OPINION HERE:
http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2018/D05-14/C:16-3970:J:Kanne:aut:T:fnOp:N:2154670:S:0

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SEARCH AND SEIZURE:

Consent; Voluntary Nature of the Consent
United States v. Morales
CA11, No.16-16057, 6/29/18

In this case, the Court of Appeals for the Eleventh Circuit discussed the voluntary nature of the consent search. The Court stated while the Fourth Amendment prohibits unreasonable searches, a search is reasonable and does not require a warrant if law enforcement obtains voluntary consent.

READ THE COURT OPINION HERE:
https://cases.justia.com/federal/appellate-courts/ca11/16-16507/16-16507-2018-06-29.pdf?ts=1530289842

SEARCH AND SEIZURE:

Consent; Withdrawal of Consent or Expressions of Frustration
United States v. Williams
CA3, No. 16-3547, 8/1/18

During an investigation, federal law enforcement officials learned that Carlton Williams was involved in the distribution of heroin. The investigation involved surveillance of Williams's activity, which eventually led to a stop of his car. Law enforcement commenced a search of Williams's car that lasted for approximately seventy-one minutes. The troopers searched every part of the car, including its passenger compartment, trunk, and undercarriage. Unable to locate any narcotics, they requested the assistance of a narcotics-detection dog. Williams eventually became less patient and told a Trooper, "You searched my car three times, now you hold me up and I have to go." Other than Williams's own testimony, there was no evidence that the trooper heard his alleged protest. Troopers eventually discovered thirty-nine grams of heroin in a sleeve covering the car's parking brake lever. Williams subsequently pleaded guilty to possession of heroin with intent to distribute in violation of federal drug laws.

READ THE COURT OPINION HERE:
http://www2.ca3.uscourts.gov/opinarch/163547p.pdf

SEARCH AND SEIZURE:

Curtilage; Automobile Exception

Collins v. Virginia

USSC, No. 16-1027, 5/29/18

During the investigation of two traffic incidents involving an orange and black motorcycle with an extended frame, Officer David Rhodes learned that the motorcycle likely was stolen and in the possession of Ryan Collins. Officer Rhodes discovered photographs on Collins' Facebook profile of an orange and black motorcycle parked in the driveway of a house, drove to the house, and parked on the street. From there, he could see what appeared to be the motorcycle under a white tarp parked in the same location as the motorcycle in the photograph. Without a search warrant, Office Rhodes walked to the top of the driveway, removed the tarp, confirmed that the motorcycle was stolen by running the license plate and vehicle identification numbers, took a photograph of the uncovered motorcycle, replaced the tarp, and returned to his car to wait for Collins. When Collins returned, Officer Rhodes arrested him. The trial court denied Collins' motion to suppress the evidence on the ground that Officer Rhodes violated the Fourth Amendment when he trespassed on the house's curtilage to conduct a search, and Collins was convicted of receiving stolen property. The Virginia Court of Appeals affirmed. The State Supreme Court also affirmed, holding that the warrantless search was justified under the Fourth Amendment's automobile exception. The U.S. Supreme Court held that the automobile exception does not permit the warrantless entry of a home or its curtilage in order to search a vehicle therein.

READ THE COURT OPINION HERE:

https://www.supremecourt.gov/opinions/17pdf/16-1027_7lio.pdf

SEARCH AND SEIZURE:

Failure to Leave a Copy of the Search Warrant

State of Tennessee v. Daniel

TSC, No. II-CR018524, 7/20/18

Angela Faye Daniel was arrested for driving under the influence. The arresting officer obtained a search warrant and transported Daniel to a medical facility for a blood draw. The officer failed to give her a copy of the search warrant. The trial court granted Daniel's motion to suppress the evidence obtained pursuant to the warrant on the basis of the exclusionary rule set forth in Tennessee Rule of Criminal Procedure 41. The State sought and was granted an interlocutory appeal, and the Court of Criminal Appeals affirmed. The Supreme Court of Tennessee at Nashville reviewed this case in order to determine whether the exclusionary rule should be applied to a blood sample drawn from an individual pursuant to a search warrant because the arresting officer failed to leave a copy of the warrant with the individual. The Court held that, under the facts and circumstances of this case, a good-faith exception should be applied to Rule 41's exclusionary rule.

READ THE COURT OPINION HERE:

https://www.tncourts.gov/sites/default/files/daniel.angela.opn_.pdf

SEARCH AND SEIZURE:

No-Contact Order; No Expectation of Privacy in a Residence Where an Individual is Barred from Entering

United States v. Schram

CA9, No. 17-30055, 8/21/18

On September 24, 2014, detectives from the Medford Police Department were called to investigate the robbery of a local U.S. Bank branch. After interviewing eyewitnesses and further police work, the detectives had probable cause to believe that Gerald Thomas Schram was responsible. A records check showed, among other things, that there was a no-contact order prohibiting Schram from contacting his girlfriend, Zona Satterfield.

The detectives began their search for Schram at Satterfield's residence, as it was the only address the detectives had that was associated with him. Without a warrant (and, for the purposes of this appeal, it is assumed without Satterfield's consent), the detectives entered the residence, found Schram inside, and arrested him. They then obtained a search warrant and searched Satterfield's home.

Schram was later indicted for bank robbery in violation of 18 U.S.C. § 2113(a), and he moved to suppress the evidence obtained in the search. The district court denied the suppression motion, concluding that Schram could not "object to the entry into [Satterfield's] house" because "[h]e has no expectation of privacy in a residence that he is legally barred from entering." Schram pled guilty, conditioned on his right to appeal the denial of his suppression motion.

READ THE COURT OPINION HERE:
http://cdn.ca9.uscourts.gov/datastore/opinions/2018/08/21/17-30055.pdf

SEARCH AND SEIZURE:

Private Search Doctrine; Hash Values

United States v. Reddick

CA5, No. 17-41116, 8/17/18

Private businesses and police investigators rely regularly on "hash values" to fight the online distribution of child pornography. Hash values are short, distinctive identifiers that enable computer users to quickly compare the contents of one file to another. They allow investigators to identify suspect material from enormous masses of online data, through the use of specialized software programs—and to do so rapidly and automatically, without the need for human searchers.

Hash values have thus become a powerful tool for combating the online distribution of unlawful aberrant content. The question in this appeal is whether and when the use of hash values by law enforcement is consistent with the Fourth Amendment. For the Fourth Amendment concerns not efficiency, but the liberty of the people "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."

READ THE COURT OPINION HERE:
http://www.ca5.uscourts.gov/opinions/pub/17/17-41116-CR0.pdf

SEARCH AND SEIZURE:

Search by a Private Person

United States v. Highbull

CA8, No. 17-2728, 7/6/18

Terance Highbull pleaded guilty to one count of sexual exploitation of a child but reserved the right to challenge the denial of his motion to suppress evidence recovered from a cell phone that his girlfriend provided to law enforcement. On appeal, Highbull argues that the district court erred in concluding that the girlfriend was acting as a private citizen—not a government agent—when she retrieved the phone from his vehicle and, thus, that the Fourth Amendment did not apply.

READ THE COURT OPINION HERE:

http://media.ca8.uscourts.gov/opndir/18/07/172728P.pdf

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SEARCH AND SEIZURE:

Stop and Frisk; Reasonable Suspicion; Anonymous Tip

United States v. Watson

CA7, No. 17-1651, 8/17/18

The police received an anonymous 911 call from a 14-year-old who borrowed a stranger's phone and reported seeing "boys" "playing with guns" by a "gray and greenish Charger" in a nearby parking lot. A police officer drove to the lot, blocked a car matching the caller's description, ordered the car's occupants to get out of the car, and found that a passenger in the car, David Watson, had a gun. He later conditionally pleaded guilty to possessing a firearm as a felon. The Seventh Circuit vacated the conviction. The police did not have reasonable suspicion to block the car. The anonymous tip did not justify an immediate stop because the caller's report was not sufficiently reliable. The caller used a borrowed phone, which would make it difficult to find him, and his sighting of guns did not describe a likely emergency or crime—he reported gun possession, which is lawful.

READ THE COURT OPINION HERE:

http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2018/D08-17/C:17-1651:J:Barrett:aut:T:fnOp:N:2204352:S:0

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SEARCH AND SEIZURE:

Stop and Frisk; Reasonable Suspicion

United States v. Hammond

CA10, No. 17-1102, 5/15/18

Two members of the Aurora Police Department pulled over a car in which Ajohntae Hammond was riding as the passenger in a busy intersection in Aurora, Colorado. The question which the Court of Appeals for the Tenth Circuit must decide in this appeal is whether the officers had reasonable suspicion to believe Hammond was armed and dangerous to justify frisking him for weapons. The pat-down they conducted revealed a gun in Hammond's pocket and Hammond was charged with being a felon in possession of a firearm.

READ THE COURT OPINION HERE:

https://www.ca10.uscourts.gov/opinions/17/17-1102.pdf

SEARCH AND SEIZURE:

Traffic Stop; Entry onto Private Property
State of Arizona v. Hernandez
ASC, No CR-17-0325-PR, 5/18/18

Anthony Lito Hernandez's rights under the Fourth Amendment to the United States Constitution and the Arizona Constitution were not violated when law enforcement officers followed his vehicle onto a private driveway to complete a traffic stop that began on a public road. Hernandez was found guilty of possession of marijuana, possession of drug paraphernalia, and transporting methamphetamine for sale. He appealed the trial court's denial of his motion to suppress evidence seized from him and his vehicle and the court of appeals affirmed. The Supreme Court of Arizona affirmed, holding that the Constitution does not protect a driver that declines to stop on a public road and retreats onto private property; and the officers' actions in this case comported with Fourth Amendment standards because Hernandez impliedly consented to the location of the stop where he led the officers in his vehicle.

READ THE COURT OPINION HERE:
https://www.azcourts.gov/Portals/0/OpinionFiles/Supreme/2018/CR-17-0325-PR.pdf

SEARCH AND SEIZURE:

Traffic Stop; Totality of Circumstances Justify Continued Detention
United States v. Villafranco-Elizondo
CA5, No. 17-30530, 7/27/18

Jesus Villafranco-Elizondo was driving from Texas to Louisiana when Corporal James Woody of the West Baton Rouge Parish Sheriff's Office pulled him over for a couple of minor traffic violations. The officer claims that during the traffic stop, he developed a reasonable suspicion that the trailer contained contraband. After questioning Villafranco-Elizondo for approximately eleven minutes, the officer ran a check on his driver's license. Before the check was complete, the officer approached Villafranco-Elizondo with additional questions. During this exchange, Villafranco-Elizondo gave the officer consent to search the trailer, and a subsequent search found a hidden compartment containing cocaine. Villafranco-Elizondo filed a motion to suppress, arguing that his consent to search was tainted because the traffic stop was both unjustified at its inception and unlawfully prolonged.

READ THE COURT OPINION HERE:
https://cases.justia.com/federal/appellate-courts/ca5/17-30530/17-30530-2018-07-27.pdf?ts=1532734216