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ARKANSAS ACT 629: HEMP

Arkansas Act 629 made much of Arkansas's previously legal hemp industry illegal. A coalition of affected businesses (Bio Gen) sued state officers in their official capacities (collectively, Arkansas), alleging that Act 629 is unconstitutional.

The United States District Court for the Eastern District of Arkansas found that the plaintiffs were likely to succeed on the merits of their Supremacy Clause and due process claims. The court concluded that the 2018 Farm Bill likely preempted Act 629 and that the Act was likely void for vagueness. The court also found that the Governor and Attorney General were not entitled to sovereign immunity because they were sufficiently connected to the enforcement of Act 629.

The United States Court of Appeals for the Eighth Circuit held that the 2018 Farm Bill did not expressly preempt Act 629 because the Act's savings clause allowed for the continuous transportation of hemp through Arkansas. The court also found that Act 629 did not conflict with the 2018 Farm Bill's purpose of legalizing hemp production, as the federal law allows states to regulate hemp production more stringently. Additionally, the court concluded that Act 629 was not unconstitutionally vague. The Court further held that the Governor and Attorney General were entitled to sovereign immunity because they did not have a sufficient connection to the enforcement of Act 629. The court vacated the preliminary injunction, reversed the order denying the motion to dismiss the Governor and Attorney General, and remanded the case for further proceedings.

READ THE COURT OPINION HERE:

<https://arkleg.state.ar.us/Home/FTPDocument?path=%2FACTS%2F2023R%2FPublic%2FACT629.pdf>

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CIVIL LIABILITY: Arrestee Swallows a Bag of Drugs; Later Dies from Acute Cocaine Toxicity

Hodges v. Abram, CA6, No. 24-1292, 5/29/25

Michael Molson was arrested by Kent County officers during a search warrant execution for crack cocaine. Molson attempted to swallow a bag of drugs, which officers forced him to expel. Despite being asked multiple times, Molson denied swallowing any more drugs. He showed no symptoms of drug ingestion and was taken to jail, where he underwent two medical evaluations and continued to deny swallowing drugs. The next day, Molson was found unresponsive and later died from acute cocaine toxicity, with an autopsy revealing a bag of cocaine in his stomach.

The U.S. District Court for the Western District of Michigan denied the officers' motions for summary judgment based on qualified immunity, finding that there was a genuine issue of material fact regarding whether the officers were deliberately indifferent to Molson's serious medical needs. The court concluded that Molson's need for medical attention was clearly established at the time of his arrest.

The U.S. Court of Appeals for the Sixth Circuit reviewed the case and reversed the district court's denial of qualified immunity. The Sixth Circuit held that Molson's medical need was not sufficiently serious or obvious to the officers, as he showed no symptoms and repeatedly denied swallowing drugs. The court found that the officers acted reasonably by taking Molson to jail, where he received medical evaluations that did not indicate any immediate health risk. Consequently, the officers were entitled to qualified immunity, and the case was remanded for entry of judgment in favor of the defendants.

READ THE COURT OPINION HERE:

<https://www.opn.ca6.uscourts.gov/opinions.pdf/25a0139p-06.pdf>

CIVIL LIABILITY: Blast Ball Grenade Explosion was not a Fourth Amendment Seizure

Cheairs v. City of Seattle, CA9, No. 24-3163, 8/1/25

During a protest in Seattle, Taylor Cheairs was filming the event when Officer Anderson of the Seattle Police Department (SPD) threw a blast ball grenade that exploded and struck Cheairs in the groin, causing serious injury. Cheairs sued the City of Seattle, the SPD, and unnamed officers under 42 U.S.C. § 1983, alleging excessive force in violation of the Fourth Amendment and retaliation in violation of the First Amendment.

The U.S. District Court for the Western District of Washington granted summary judgment in favor of the defendants. The court concluded that there was no Fourth Amendment violation because Cheairs was not seized, and no First Amendment violation because there was no evidence of retaliation.

The U.S. Court of Appeals for the Ninth Circuit affirmed the district court's summary judgment, holding that although a reasonable fact finder could conclude that Cheairs was seized when Officer Anderson struck him with the blast ball, the use of force was reasonable under the circumstances. The court noted that the protesters near Cheairs posed an immediate threat to the safety of officers, citizens, and property and that Cheairs failed to establish a viable First Amendment retaliation claim because he did not provide evidence that his filming was a substantial or motivating factor in the use of force

against him.

READ THE COURT OPINION HERE:

<https://cdn.ca9.uscourts.gov/datastore/opinions/2025/08/01/24-3163.pdf>

CIVIL LIABILITY: Forensic Interview of Minor Children Over Objection of Parents

Welter v. Wilson, CA8, No. 24-2531, 8/25/25

Police officers in Bella Vista, Arkansas, responded to a home shared by the Welters and Hutchins families after a suspected drug overdose, where they found pills, including fentanyl, in areas accessible to children. A week later, another overdose occurred at the same residence, resulting in a fatality while children were present. Months later, officers discovered traces of THC in the home's trash, and a subsequent search revealed marijuana and drug paraphernalia throughout the house, including a still-smoking bong. During an interview, one parent admitted that adults regularly smoked marijuana in the home, though they tried to keep the children out of the room. Police notified the Arkansas Department of Human Services about possible child endangerment. Shortly after, Detective Janice Wilson and other officers took the minor children for forensic interviews without a warrant, over the parents' objections, and warned the parents they would be arrested if they interfered. The children were later returned to their parents.

The United States District Court for the Western District of Arkansas granted summary judgment to Detective Wilson on the parents' Fourth Amendment claims, finding she was entitled to qualified immunity. The court determined that the parents had not alleged a violation of their own Fourth Amendment rights and that the claims on behalf of the children did not overcome qualified

immunity. The parents appealed, focusing solely on the Fourth Amendment claims.

The United States Court of Appeals for the Eighth Circuit affirmed the district court's decision. The Eighth Circuit held that Detective Wilson was entitled to qualified immunity because, under the totality of the circumstances, a reasonable officer could have believed there was reasonable suspicion that the children were in danger. The court also declined to adopt a new standard requiring probable cause and exigent circumstances for such removals, noting that existing precedent did not clearly establish such a right.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca8/24-2531/24-2531-2025-08-29.pdf?ts=1756481429>

CIVIL LIABILITY: High Speed Pursuit; Collision Results in Death of Innocent Driver

Flynn v. Consolidated City of Indianapolis and Marion County, CA7, No. 23-3289, 8/7/25

Edward Flynn was killed when a fleeing suspect, James Shirley, crashed into his car during a high-speed police pursuit. The incident began when Indianapolis police officers attempted to investigate a potentially stolen truck. Shirley, the suspect, backed into a patrol car and nearly struck two officers before fleeing. Multiple officers engaged in a pursuit that lasted about five and a half minutes, during which Shirley drove recklessly, including turning off his lights, running stop signs and red lights, and reaching high speeds. The chase ended when Shirley ran a red light and collided with Edward Flynn's vehicle, resulting in Flynn's death.

Gayl Flynn, representing Edward's estate, filed suit in the United States District Court for the Southern District of Indiana against the City and five officers. She alleged violations of Edward's Fourteenth Amendment substantive due process rights and claimed the City failed to properly train its officers, invoking *Monell v. Department of Social Service of New York*. The district court granted summary judgment for the defendants, applying the "intent to harm" standard for Fourteenth Amendment liability in emergency situations and finding no such intent by the officers.

The United States Court of Appeals for the Seventh Circuit agreed that the facts presented an emergency situation, making the "intent to harm" standard appropriate. The court found that the officers did not act with intent to harm and that the circumstances did not support a claim under a deliberate indifference standard. Because there was no underlying constitutional violation, the Monell claim against the City also failed. The Seventh Circuit affirmed the district court's grant of summary judgment to all defendants.

READ THE COURT OPINION HERE:

<https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2025/D08-07/C:23-3289:J:Kirsch:aut:T:fnOp:N:3407888:S:0>

CIVIL LIABILITY: High Speed Pursuit; Request to Show Hands; Furtive Movements Inside Vehicle; Deadly Force

Benton v. Layton, CA4, No. 23-1680, 6/3/25

Virginia State Troopers Seith W. Layton and Benjamin I. Bone were in a parked marked vehicle when Xavier D. Hill, an eighteen-year-old male, passed in a vehicle traveling at a high rate of

speed. The officers started a pursuit reaching 96 miles per hour when they caught up with Hill's vehicle.

Hill's vehicle began swerving again, crossing from the middle lane to the right lane and back. Defendants then activated the police vehicle's sirens. Hill suddenly slowed down, briefly extended his left arm out of the front driver's side window, and subsequently came to a near-complete stop. Hill then pulled onto the right embankment of the now two-lane highway and again settled to a near-complete stop. Suddenly, Hill took a U-turn across the two lanes of the highway. When he reached the left embankment (with his vehicle pointed backwards down the highway), his vehicle slid down a steep slope and settled at the bottom against the median's tree line.

Layton parked the police vehicle on the highway with the vehicle's nose (and Dashcam view) pointed at Hill's vehicle. Layton and Bone exited the police vehicle, and Bone immediately issued three verbal commands to "Get out of the car now." Layton and Bone appear on the dashcam with their guns drawn and pointed at Hill, who remained in his vehicle throughout the encounter. The following verbal exchange occurred between Dashcam 4:48 and 5:06:

BONE: Get out of the car now! Get out of the car now! Get out of the car now!

LAYTON: Show me your hands! Do it now! Put your hands up! Put your hands up!

BONE: You got him? I got you.

LAYTON: Put your hands up! Let me see your hands!

HILL: My door doesn't open.

BONE: Put your hands up!

HILL: My door doesn't open.

LAYTON: Put your hands out the door! Put your hands out the door! Do it now!

At this point, Layton and Bone had progressed to within a few feet of Hill's vehicle, with Layton to the left of Bone. In response to Layton's commands, Hill put his left arm out of the front driver's side window. Dashcam at 5:07 His right arm remained in the vehicle at all times. Layton then continued to issue commands:

LAYTON: Put your hands out the door! Stop moving!

Right after this command, Hill quickly pulled his left arm inside the vehicle. Layton again commanded Hill to put his hands out the door.

Layton and Bone then moved to a position nearly directly outside Hill's door. Between Dashcam 5:11 and 5:13, Bone moved to a position near the back driver's side door of Hill's vehicle, shined his flashlight into the vehicle, and then moved back to his original position near the front driver's side door.

LAYTON: Put your hands out the window! Put your hands out the window! Reaching, reaching, reaching!

As he said the above at Dashcam 5:14, Layton backed away from Hill's vehicle, and Bone swiftly stepped forward, positioning himself directly outside Hill's window. Bone pointed his flashlight directly into the window, and backed away quickly as the following was said near-simultaneously:

BONE: Stop reaching, he's got a gun!

LAYTON: Gun!

When Layton and Bone commanded Hill to stop reaching, the Dashcam shows Hill making movements around the center console and obscured passenger side of his vehicle. Directly after the command to stop reaching, two gunshots were fired by Bone and one by Layton. Bone fired one last gunshot at Dashcam 5:19. After firing, Layton and Bone both said they could no longer see the gun. Bone went around to the passenger side of Hill's vehicle, where he found a gun in the front passenger seat. Hill died at the scene.

Hill's estate, with his mother, LaToya K. Benton, acting as administrator, filed a complaint in the United States District Court for the Eastern District of Virginia alleging Layton and Bone used excessive force in violation of 42 U.S.C. § 1983. Specifically, Benton asserted that Layton and Bone shot Hill while Hill "was trapped inside his vehicle, posed no danger to Layton and Bone, and was pleading with Layton and Bone that his car door was stuck.

The district court found that the troopers were entitled to qualified immunity on both the constitutional and clearly established prongs. The court determined that the troopers reasonably believed Hill posed a danger by disobeying commands and reaching towards what they perceived to be a handgun. The court also concluded that there was no precedent clearly establishing that the troopers' actions were unlawful. Consequently, the court dismissed the state law tort claims, as they were dependent on the success of the federal excessive force claim.

The United States Court of Appeals for the Fourth Circuit affirmed the district court's decision. The appellate court held that the troopers were entitled to qualified immunity. The court found that all three *Graham v. Conner*, 490 U.S. 386 (1985) factors—severity of the crime, immediate threat to officers, and resisting arrest or evading arrest by flight—favored the troopers. The court also determined that there was no Supreme Court or Fourth Circuit precedent that clearly established the troopers' conduct as unconstitutional. Therefore, the judgment of the district court was affirmed.

READ THE COURT OPINION HERE:

<https://www.ca4.uscourts.gov/opinions/231680.p.pdf>

CIVIL LIABILITY:

Imminent Threat of Serious Harm

Maser v. City of Coralville, Iowa
CA8, No. 23-3637, 6/13/25

After a welfare check was requested by his fiancée, Joseph Maser was involved in a standoff with police at his suburban Iowa home. Maser had threatened suicide, fired a gun inside his house, and was reportedly intoxicated with access to firearms. Officers attempted to negotiate with Maser for nearly an hour, during which Maser became increasingly agitated and made threats. Maser exited his garage holding a rifle, ignored commands to drop the weapon, and raised the rifle outward from his body. Officer Joshua Van Brocklin, perceiving a threat, shot Maser twice in the chest. Maser survived and subsequently brought a claim under 42 U.S.C. § 1983, alleging excessive force.

Initially, Maser filed suit in state court against Officer Van Brocklin, the City of Coralville, and

other officers. The district court granted summary judgment on those claims and, also granted summary judgment for Officer Van Brocklin on the federal excessive force claim.

On appeal, the United States Court of Appeals for the Eighth Circuit held that, under the totality of the circumstances, Officer Van Brocklin's use of deadly force was objectively reasonable because Maser's actions—raising a rifle outward after repeated noncompliance and threats—created an imminent threat of serious harm. The court found no genuine dispute of material fact and affirmed the district court's grant of summary judgment, holding that Maser's Fourth Amendment rights were not violated.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca8/23-3637/23-3637-2025-06-13.pdf?ts=1749828653>

CIVIL RIGHTS: Individual Engages Law Enforcement with Law Enforcement; Later Exits House Unarmed and is Shot

Heid v. Rutkoski, CA11, No. 24-10068, 7/10/25

Joseph Heid filed a lawsuit under 42 U.S.C. § 1983 against Orange County Sheriff's Deputies Mark Rutkoski and Forrest Best, alleging they used unreasonable force in violation of the Fourth Amendment. The incident occurred after Heid had a domestic dispute, left his house, and later returned armed with a rifle. He engaged in a gunfight with deputies in his backyard and then re-entered his house. When he exited the house again, Deputies Rutkoski and Best, believing he was still armed, shot him multiple times.

In the Circuit Court of the Ninth Judicial Circuit, Heid was found guilty of several charges, including

Attempted Second-Degree Murder of a Law Enforcement Officer and Resisting an Officer with Violence. Heid then filed a civil lawsuit, and the United States District Court for the Middle District of Florida denied the deputies' motion for summary judgment, which asserted qualified immunity. The District Court found there was a genuine factual dispute regarding whether the deputies used excessive force and whether Heid posed a threat when he exited the house.

The United States Court of Appeals for the Eleventh Circuit concluded that Deputies Rutkoski and Best did not violate Heid's Fourth Amendment rights. The court reasoned that the deputies reasonably believed Heid was armed and dangerous based on the information they had, including Heid's recent gunfight with other deputies and his rapid exit from the house. The court held that the use of force was reasonable under the circumstances and that the deputies were entitled to qualified immunity. The judgment of the District Court was reversed, and the case was remanded.

READ THE COURT OPINION HERE:

<https://media.ca11.uscourts.gov/opinions/pub/files/202410068.pdf>

CIVIL LIABILITY:

**Officer Claims Firearm Discharged
Accidentally**

Benavides v. Nunez, CA5, No. 24-20445, 7/16/25

Deputy Jose Nunez of the Harris County Sheriff's Office responded to a 911 call about a possible home invasion. Upon arrival, he encountered Stephen Benavides, the homeowner's father, at the front door. Nunez shot Benavides, who was unarmed, claiming the firearm discharged accidentally while switching hands. Benavides sued Nunez for excessive force under 42 U.S.C. § 1983.

Nunez sought summary judgment based on qualified immunity, arguing the shooting was accidental. The district court denied the motion, finding a genuine dispute of material fact regarding whether the shooting was intentional or accidental. The district court held that if the shooting was intentional, it would be objectively unreasonable and violate clearly established law.

The United States Court of Appeals for the Fifth Circuit noted that it lacked jurisdiction to review the district court's determination of a genuine factual dispute. The Fifth Circuit emphasized that it could only review the materiality, not the genuineness, of the factual dispute. Since Nunez's appeal challenged the genuineness of the factual dispute, the court dismissed the appeal for lack of jurisdiction. The case was remanded for a jury to resolve the factual dispute and determine the issue of qualified immunity.

READ THE COURT OPINION HERE:

<https://www.ca5.uscourts.gov/opinions/pub/24/24-20445-CV0.pdf>

CIVIL LIABILITY: Officers Returning Fire Kill Child Used as a Shield

Estate of Parker v. Mississippi Department of Public Safety, CA5, No. 26-60208, 6/6/25

Three-month-old La'Mello Parker died during a confrontation between his father, Eric Smith, and law enforcement. Smith, a fugitive wanted for double homicide, used La'Mello as a human shield and fired at officers, who returned fire, killing La'Mello. La'Mello's grandfather and brother sued various law enforcement entities and officers, alleging violations under 42 U.S.C. § 1983.

The United States District Court for the Southern District of Mississippi dismissed the case, finding that the officers' actions did not constitute constitutional violations and that they were protected by qualified immunity. The court also dismissed the Fourteenth Amendment claims, stating that the conduct did not shock the conscience, and declined to exercise jurisdiction over the state-law claims.

The United States Court of Appeals for the Fifth Circuit affirmed the district court's dismissal, holding that the officers did not violate La'Mello's Fourth Amendment rights as their use of force was reasonable under the circumstances. The court noted that Smith posed a grave and immediate threat, and the officers' decision to return fire was justified. The court also found that the officers were entitled to qualified immunity because the law was not clearly established that their conduct was unconstitutional. Additionally, the court held that the Fourteenth Amendment claims failed as the officers' actions did not shock the conscience. The court concluded that without an underlying constitutional violation, the bystander liability and municipal liability claims also failed.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca5/24-60208/24-60208-2025-06-06.pdf?ts=1749256214>

CIVIL LIABILITY:**Perceived Threat and Totality of Circumstances Justify Use of Deadly Force**

Cruz v. City of Deming, CA10, No. 24-2091, 5/28/25

A motorist on Interstate 10 near Deming, New Mexico, reported a man in the median with a firearm who may have fired shots. Police officers encountered Gilbert Valencia in a nearby mesquite field, matching the description and holding what appeared to be an AR-style rifle. Valencia did not consistently comply with officers' commands and moved his hand on the weapon, prompting five officers to shoot him. Valencia died from his wounds. His estate brought federal claims against the City of Deming, individual officers, Luna County, and the New Mexico Department of Public Safety.

The United States District Court for the District of New Mexico granted summary judgment for the officers, asserting qualified immunity. The Estate appealed the decision.

The United States Court of Appeals for the Tenth Circuit reviewed the case. The court affirmed the district court's decision, concluding that the officers were entitled to qualified immunity because their use of lethal force was objectively reasonable based on the circumstances. The court held that the officers' actions were reasonable given the perceived threat and the totality of the circumstances, including Valencia's non-compliance and the officers' belief that he was armed and dangerous.

READ THE COURT OPINION HERE:

<https://www.ca10.uscourts.gov/sites/ca10/files/opinions/010111241412.pdf>

CIVIL LIABILITY:**Reasonable Suspicion Justified No Knock Warrant; Deadly Force Justified**

Davenport v. City of Little Rock, CA8, No. 23-2834, 7/17/25

On September 1, 2016, law enforcement officers conducted narcotics raids at a home and shop in Pulaski County, Arkansas. During the raid, officers found contraband in both locations, and an officer shot and injured Lloyd St. Clair, who was holding a shotgun. Lloyd and other occupants of the home and shop filed a lawsuit under § 1983, alleging violations of their Fourth Amendment rights.

The United States District Court for the Eastern District of Arkansas granted summary judgment in favor of the defendants. The plaintiffs appealed the decision, arguing that there were genuine disputes regarding the existence of two separate search warrants and the justification for no-knock entries.

The United States Court of Appeals for the Eighth Circuit found that the record included two valid search warrants signed by a state judge. The court also determined that the officers had reasonable suspicion to justify the no-knock entries based on videos of Amy St. Clair shooting firearms, which were seen by Officer Kalmer before the raids.

Regarding Lloyd's excessive force claim, the court held that the use of deadly force was reasonable, as Lloyd admitted to pointing a gun at the officer. The court also affirmed the district court's grant of summary judgment on the municipal liability claim, as there was no underlying constitutional violation by the city employees.

The Eighth Circuit affirmed the judgment of the district court, upholding the summary judgment in favor of the defendants.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca8/23-2834/23-2834-2025-07-07.pdf?ts=1751902225>

CIVIL LIABILITY: Smell of Marijuana and Observation of Ashes; Probable Cause; Automobile Exception

United States v. Riojas, CA5, No. 24-40378, 6/4/25

On September 10, 2020, at approximately 2:00 a.m., Corpus Christi Police Officers Perez and Alfaro stopped Isaac Riojas after observing him roll through a stop sign. Riojas, known to the officers from prior investigations, opened his car door and threw his keys outside. Officer Perez noticed a strong odor of marijuana and ashes on Riojas's lap. Riojas was detained, and a search of his vehicle revealed multiple bags of synthetic cannabinoid, marijuana, and methamphetamine. Riojas was arrested and charged with possession with intent to distribute methamphetamine and being a felon in possession of a firearm and ammunition.

The United States District Court for the Southern District of Texas denied Riojas's motion to suppress the evidence, holding that the search fell within the automobile exception to the Fourth Amendment. Riojas then entered an unconditional guilty plea, was sentenced to 121 months of imprisonment, and appealed the denial of his motion to suppress.

The Fifth Circuit concluded that the search was lawful under the automobile exception to the Fourth Amendment. The court held that the

officers had probable cause to search Riojas's vehicle based on the smell of marijuana, the visible ashes, and the partially smoked marijuana joint. Consequently, the court affirmed the district court's denial of the motion to suppress and upheld Riojas's conviction and sentence.

READ THE COURT OPINION HERE:

<https://www.ca5.uscourts.gov/opinions/pub/24/24-40378-CR0.pdf>

CIVIL LIABILITY: Qualified Immunity Based on Officer's Observation and Woman's Refusal to Cooperate

Wood v. Bexar County, CA5, No. 24-51006, 8/6/25

A woman was stopped by a county deputy in Texas around 2:00 AM after the officer claimed to observe multiple traffic violations, including speeding and failing to maintain a single lane. The woman, who had just left a family event with her husband, denied any wrongdoing and began recording the encounter on her phone. The officer reported smelling alcohol and observing signs of intoxication, such as slurred speech and glossy eyes. The woman refused to answer certain questions or perform field sobriety tests, leading to her arrest. Body camera footage later showed her being uncooperative and verbally abusive during the arrest and subsequent blood draw at the jail. A blood test revealed a low blood alcohol content, and the criminal charge was later dismissed for insufficient evidence.

The United States District Court for the Western District of Texas granted summary judgment in favor of the county and the arresting officer on all claims. The court found that the officer was entitled to qualified immunity and that there was probable cause for the arrest based on the totality of the circumstances, including the

officer's observations and the woman's refusal to cooperate.

On appeal, the United States Court of Appeals for the Fifth Circuit affirmed the district court's judgment, holding that the officer had probable cause to arrest for driving while intoxicated, and that the woman failed to show a constitutional violation necessary for her claims.

READ THE COURT OPINION HERE:

<https://www.ca5.uscourts.gov/opinions/pub/24/24-51006-CV0.pdf>

CIVIL LIABILITY: Unreasonable Seizure; False Imprisonment; Excessive Force

Hodges v. City of Grand Rapids, Michigan, CA6, No. 24-1615, 5/30/25

Whitney Hodges, representing the estate of her late daughter Honestie Hodges, alleges that on December 6, 2017, Grand Rapids Police Department officers detained Honestie, an eleven-year-old African American girl, at gunpoint, handcuffed her, and placed her in a police car. The officers were searching for a stabbing suspect who did not match Honestie's description. Honestie was not armed, did not pose a threat, and did not attempt to flee. The complaint asserts that the officers lacked probable cause or reasonable suspicion to detain Honestie and used excessive force in doing so.

The United States District Court for the Western District of Michigan found that the complaint plausibly alleged violations of Honestie's Fourth Amendment rights, including unreasonable search and seizure, false imprisonment, and excessive force.

The United States Court of Appeals for the Sixth Circuit affirmed the district court's order, agreeing that the complaint plausibly alleged that the officers violated Honestie's clearly established rights. The Sixth Circuit held that the officers' actions, as alleged, lacked reasonable suspicion or probable cause and involved excessive force.

READ THE COURT OPINION HERE:

<https://www.opn.ca6.uscourts.gov/opinions.pdf/25a0142p-06.pdf>

CIVIL LIABILITY: *Use of Force Reasonable Considering Resistance*

Snukis, Jr. v. Taylor, CA7, No. 24-1946, 7/28/25

An employee of a Honda dealership reported to a 9-1-1 emergency dispatcher that an impaired man had repeatedly entered a rear parking lot, was peering into windows, and was refusing to leave. The caller expressed concern that the man would be hit by a passing car.

Evansville police officers Matthew Taylor and Trevor Koontz responded to the call. As they arrived on the scene, both officers activated their bodycams. In the parking lot they encountered Edward Snukis, who matched the description of the man identified in the 9-1-1 call and appeared to be intoxicated. Officer Koontz approached Snukis and asked him (twice) to put his hands on his head.

When Snukis failed to do so, Officer Koontz grabbed Snukis's arm and told him to turn around. Snukis resisted and a brief struggle ensued. As Snukis tried to get away, he struck Officer Koontz with his arm. Both men fell to the ground. At that point, Officer Taylor fired his taser into Snukis and ordered him to get on the ground with his hands up. When Snukis rolled over and started removing

the barbs from his chest, Officer Taylor tased him a second time. Snukis removed the barbs, got up, and fled.

After a brief foot pursuit, Snukis tripped and fell. Officers Taylor and Koontz got on top of Snukis and attempted to handcuff him. Snukis continued to resist: while the officers commanded him to put his hands behind his back, Snukis grabbed at Officer Taylor's genitals, reached for his holster, and took hold of his leg. To get free of Snukis's grasp, Officer Taylor struck Snukis in the head approximately six times. Eventually the officers were able to get Snukis's hands behind his back and handcuff him. A third officer, Nicholas Hackworth, arrived on the scene as Snukis was being secured.

Although Snukis was initially shouting and swearing at the officers when they got on top of him, Snukis became quieter as they struggled to handcuff him. Snukis also began making guttural and snoring sounds. Once Snukis was secured in handcuffs, one of the officers observed that he appeared to be unconscious. The officers turned Snukis over to check that he was still breathing. He was, though he remained unresponsive. An officer began applying sternum rubs and Officer Hackworth called for medical assistance. The officers continued to monitor Snukis's breathing and pulse. When they could no longer detect a pulse, the officers removed his handcuffs and administered chest compressions until paramedics arrived. Snukis was pronounced dead later that evening.

Snukis's children, as co-administrators of his estate, sued the officers and the City of Evansville under 42 U.S.C. § 1983. The U.S District Court for the Southern District of Indiana granted summary judgment in favor of the defendants. The estate appealed the decision.

The Court of Appeals for the Seventh Circuit stated that given the threat posed by Snukis, Officer Taylor's use of force was a reasonable means of gaining control.

"When Officer Taylor punched him, Snukis was struggling beneath the officers: he was refusing their commands, grabbing at Taylor's genitals and holster, and actively gripping Taylor's inner thigh. Prior attempts at pain compliance had not deterred Snukis. Even after officers had tased him twice and pinned him to the ground, Snukis continued to actively resist.

"It was reasonable, then, for Officer Taylor to believe that significant force was necessary to subdue Snukis, and there is no evidence that Taylor continued striking Snukis after he released his grip on Taylor's inner thigh. We will not second guess Officer Taylor's split-second judgment under these circumstances. *Graham v. Connor*, 490 U.S. 386 (1989). Nor did Officer Taylor need to interrupt his delivery of force to give Snukis time to comply between each strike. Snukis had several opportunities to comply with the officers' commands but forcefully refused, putting the officers and himself at risk of further harm."

READ THE COURT OPINION HERE:

<https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2025/D07-28/C:24-1946:J:Kirsch:aut:T:fnOp:N:3403204:S:0>

EVIDENCE: Exclusionary Rule Did Not Apply to Law Enforcement Agency Policy Violation

United States v. Lewis, CA8, No. 24-1751, 7/24/25

Officer John Buford responded to a report that shots had been fired in the area of 32nd Street and Church Street in West Memphis, Arkansas. As Officer Buford was driving down Church Street, he spotted a man and woman walking together. Officer Buford testified that he believed that the man was "carrying what appeared to be a rifle."

West Memphis Police Department policy requires officers to activate their dash cam footage and body microphones when making arrests. The recording system on the patrol car will automatically illuminate when an officer turns on the blue emergency lights. Officer Buford did not turn on his lights but continued to approach the individuals. Officer Buford testified that they "had just had at least three shooting incidents within a 30-minute period, where one resulted in a homicide." Buford admitted that he "didn't follow the policy." Officer Buford testified that he did not activate the blue lights to maintain a "tactical advantage" and the "element of surprise" and to avoid the suspects fleeing.

Lewis moved to suppress Officer Buford's testimony, arguing that his failure to activate his dash camera and his body microphone violated the police department's policy and warranted suppression of Officer Buford's testimony. The government conceded the policy violation but argued that it did not warrant suppression of Officer Buford's testimony. The district court agreed, finding that the violation of the policy is not a sufficient basis to suppress the testimony from the officer.

The Eighth Circuit affirmed the district court's decisions, holding that the exclusionary rule

did not apply to the officer’s testimony despite the policy violation. The Eighth Circuit affirmed the district court’s decisions, holding that the exclusionary rule did not apply to the officer’s testimony despite the policy violation.

<https://ecf.ca8.uscourts.gov/opndir/25/07/241751P.pdf>

EVIDENCE: Failure to Preserve Recorded Conversations

State of Arkansas v. Russell, ASC, No. CR-24-646, 2025 Ark. 89, 5/29/25

Ronald Russell was charged with internet stalking of a child after engaging in online conversations with a police detective posing as a fourteen-year-old girl. The detective, using the Whisper social media app, arranged a meeting with Russell, who was subsequently arrested. During discovery, it was revealed that the State did not possess earlier communications between Russell and the detective, as they had been deleted by the detective. Russell filed a motion to exclude the preserved communications, arguing that without the context of the deleted messages, the evidence would be misleading and prejudicial.

The Benton County Circuit Court granted Russell’s motion ruling that the preserved messages were inadmissible. The court concluded that the State failed to show the deleted messages had no exculpatory value, were available by other means, or were deleted in good faith.

The State of Arkansas appealed to the Supreme Court of Arkansas, arguing that the circuit court erred in its ruling. However, the Supreme Court of Arkansas dismissed the appeal stating the appeal did not meet the criteria for interlocutory review.

READ THE COURT OPINION HERE:

<https://cases.justia.com/arkansas/supreme-court/2025-cr-24-646.pdf?ts=1748530868>

EVIDENCE: Rape Victim’s Uncorroborated Testimony Regarding Penetration May Constitute Substantial Evidence to Convict

Overton v. State, ASC, No. CR-24-21, 2025 Ark. 105, 6/5/25

In March 2022, Kayla Clark received a call regarding a disclosure her twelve-year-old child, Minor Victim (MV), made to a school counselor. When Clark confronted MV, it was confirmed that MV was actively engaged in communications on the Snapchat application with the account “dudetf”—later confirmed by both MV and Snapchat records to be twenty-six-year-old Eric Overton. Clark took possession of MV’s phone and messaged Overton on the application to obtain a photograph of the man with whom MV was communicating. Once Clark observed Overton’s apparent age from the picture she received, she ended the conversation, but not before taking pictures with her own phone of the remaining conversations available on Snapchat.

After Clark called the police and provided the pictures of the conversations from MV’s phone, MV gave a statement to both the child advocacy center and a detective. Those conversations revealed that not only had there been an exchange of nude photographs and sexually explicit conversations but also that Overton had picked up MV from Clark’s house on three occasions in which they engaged in sexual intercourse—the same information to which MV testified, in detail, at Overton’s trial.

To establish the crime of rape, the State needed only prove that on one occasion, Overton

“engaged in sexual intercourse or deviate sexual activity” with MV while MV was “less than fourteen (14) years of age.” Ark. Code Ann. § 5-14-103(a)(3)(A) (Supp. 2021). “Sexual intercourse” means penetration, however slight, of the labia majora by a penis, while “deviate sexual activity” is defined as any act of sexual gratification involving the penetration, however slight, of the anus or mouth of a person by the penis of another person.

MV testified that she snuck out of the house on three specific occasions and met Overton and that on each occasion he penetrated both her vagina and her mouth with his penis. While Overton argues MV did not recall specific dates or the exact address, neither time nor physical location is an essential element of the crime of rape.

“A rape victim’s testimony need not be corroborated, and scientific evidence is not required. *McCauley v. State*, 2023 Ark. 68, at 4, 663 S.W.3d at 386. The victim’s uncorroborated testimony describing penetration may constitute substantial evidence to sustain the conviction. Regarding proof of MV’s age, MV testified she was twelve when the incidents occurred, provided her date of birth, and was only thirteen at the time of the trial—so it is axiomatic that MV was fourteen or younger when the sexual intercourse to which she testified occurred. As such, all of the essential elements required to prove rape were clearly met.”

READ THE COURT OPINION HERE:

<https://cases.justia.com/arkansas/supreme-court/2025-cr-24-21.pdf?ts=1749135669>

EYEWITNESS IDENTIFICATION:

Suggestive Circumstances

United States v. Carter, CA6, No. 24-1744, 8/19/25

A woman identified as E.J. was carjacked by two masked men in a Detroit store parking lot. She observed the men in the store, noting one was light-skinned and the other dark-skinned. After the incident, a store customer who knew the light-skinned man from school provided E.J. with his name and later sent both E.J. and the investigating officer photos and information from his Facebook profile. Before a police-arranged photo lineup, the customer sent E.J. a picture of the suspect, Kyrrah Radaker-Carter, despite police instructions not to do so. E.J. confirmed to the customer that the man in the photo was the carjacker. The next day, E.J. participated in a six-photo lineup and immediately identified Radaker-Carter.

The United States District Court for the Eastern District of Michigan denied Radaker-Carter’s motion to suppress E.J.’s identification, finding that due process did not require exclusion because the suggestive circumstances were not arranged by law enforcement and the photo array itself was not unduly suggestive.

United States Court of Appeals for the Sixth Circuit that E.J.’s identification was constitutionally admissible because the suggestive circumstances—E.J. seeing Radaker-Carter’s photo before the lineup—were not orchestrated by law enforcement. The court also found that the police-arranged photo lineup was not unduly suggestive, as the differences in the photos were minor and did not improperly single out Radaker-Carter. The court affirmed the district court’s denial of the motion to suppress.

READ THE COURT OPINION HERE:

<https://www.opn.ca6.uscourts.gov/opinions.pdf/25a0228p-06.pdf>

MIRANDA: Warnings Not Required Where There Was No Significant Restraint

State of Louisiana v. Noehl, SCL, No. 2024-KK-01224, 06/27/25

John and Analise Noehl were indicted for second-degree murder and cruelty to a juvenile after their seven-week-old son, D.N., was brought to the hospital with life-threatening injuries, including a skull fracture and healing rib fractures. Hospital staff alerted law enforcement due to the suspicious nature of the injuries. Detectives arrived, spoke with the parents at the hospital, and conducted separate interviews in a nearby room. The interviews were calm, lasted under 20 minutes each, and concluded with the parents being allowed to leave to accompany their child to another hospital.

The District Court granted the defendants' motion to suppress the statements made during these interviews, finding that the parents were subjected to custodial interrogation without having received Miranda warnings.

The Supreme Court of Louisiana reversed the trial court's decision. The court held that, under the objective standard established by United States Supreme Court precedent, the defendants were not in custody for Miranda purposes during the hospital interviews. The court emphasized that the relevant inquiry is how a reasonable person in the suspects' position would have understood the situation, not the subjective beliefs of the officers or the defendants. Because the interviews were brief, non-coercive, and the parents were free to leave afterward, the court concluded that Miranda warnings were not required.

READ THE COURT OPINION HERE:

<https://www.lasc.org/opinions/2025/24-1224.kk.opn.pdf>

MIRANDA: Officer Alleged to Circumvent Miranda Before Advising Subject of His Miranda Rights

United States v. Robinson, CA8, No. 24-2416, 6/23/25

Sioux Falls, South Dakota Police Officer Joshua Siferd responded to a call from a local Walmart where employees had detained two individuals suspected of shoplifting. When Officer Siferd arrived, he met with a Walmart loss prevention employee, who reported that two individuals, later identified as Robinson and Yolanda Crawford, were observed using a self-checkout station and failing to scan every item in their carts. The employee explained that Walmart employees stopped Robinson and Crawford at the exit and detained them in the loss prevention office. The loss prevention employee also provided Officer Siferd with statements from Robinson and Crawford and citizen arrest forms. However, Officer Siferd did not ask to see video footage of the incident, nor did he ask for a copy of the video footage.

Officer Siferd spoke with Robinson and Crawford and asked them to provide identification, after which Robinson volunteered that he was willing to pay for the items. Officer Siferd told Robinson that they were past the point where paying for the items would remedy the situation and continued to ask Robinson and Crawford biographical questions. As Officer Siferd radioed dispatch to conduct a records check, Robinson offered a statement about being "fresh off parole." Officer Siferd continued to speak with Robinson and Crawford about the suspected shoplifting, and Robinson again offered to pay for the items that had not been rung up. Roughly 15 minutes into the encounter, after Officer Siferd had been joined by a second officer, Officer Siferd told Robinson that he could smell the odor of marijuana

emanating from him. Officer Siferd later testified that he had smelled the odor of marijuana on Robinson immediately upon their encounter but had waited to question Robinson about it until a back-up officer arrived before confronting him, consistent with department policy. Robinson responded to Officer Siferd's statement by admitting that he had smoked marijuana just prior to coming to Walmart, but, when Officer Siferd asked if he had any marijuana on him, Robinson stated that he did not.

Officer Siferd asked Robinson to place his hands on the wall to allow Officer Siferd to pat Robinson down. After beginning the pat down and feeling something in Robinson's pants, Officer Siferd asked Robinson if he had a pipe, and Robinson responded that he did not. Officer Siferd then asked Robinson to put his hands up, told him he was going to handcuff him, and placed Robinson in handcuffs. Officer Siferd then asked Robinson where the firearm was, Robinson answered that he did not know, and Officer Siferd asked Robinson, "so you don't have a firearm on you?" to which Robinson offered no response. Officer Siferd then removed a firearm from a holster in the front of Robinson's pants.

Officer Siferd asked Robinson if he was on probation or parole. Robinson responded, "not anymore," and affirmatively answered Siferd's next inquiry—whether he had ever been convicted of a felony—by responding "yes, sir." When Officer Siferd asked if Robinson knew he was not allowed to possess a firearm, Robinson answered, "yes, yes, yes sir." A few moments later, Robinson told Siferd that he wanted to "talk more." Officer Siferd responded that they would "talk more outside," told the other officer that he still needed to Mirandize Crawford and then escorted Robinson out of the store to his patrol vehicle. Once outside, Officer Siferd told Robinson

that he needed to complete his pat down search, and while doing so, Officer discovered a baggie of marijuana in Robinson's shirt pocket. As Officer Siferd pulled the baggie out of Robinson's pocket, Robinson stated, "I'm a big smoker." Robinson also had a large amount of currency on his person, totaling approximately \$5,000. Officer Siferd then placed Robinson in the back of the patrol car and confirmed with Robinson that he had a felony conviction. Robinson affirmed that he had just been released from prison after serving four years and two months.

Robinson was subsequently charged with one count of being a felon in possession of a firearm. Robinson filed a motion to suppress, arguing that his statements about a prior felony conviction and his right to possess a firearm should be suppressed because some occurred while he was in custody but before he was given his Miranda warnings. After the motion was denied, Robinson entered a guilty plea, preserving the right to appeal the denial of his motion to dismiss.

The Court of Appeals for the Eighth Circuit held that there was no evidence that Officer Siferd engaged in an orchestrated effort to circumvent Miranda by delaying the warnings until after Robinson made incriminating statements.

"Officer Siferd began speaking with Robinson while conducting a routine investigation into a shoplifting complaint. Robinson's incriminating statements were made as the investigation developed, and Robinson voluntarily responded to Officer Siferd's inquiries that were free from any hint of coercion. While Officer Siferd did not immediately give Robinson Miranda warnings after handcuffing him, we view any such failure as nothing more than the 'arguably innocent neglect of Miranda.' *Missouri v. Seibert*, 542 U.S. at 615. Simply stated, whatever the reason for

Officer Siferd's oversight, the incident had none of the earmarks of coercion.

"Robinson asserts that, even if Officer Siferd did not intentionally circumvent Miranda, Robinson's waiver of his rights was not knowing or voluntary because he was not fully aware of the rights he was waiving or the consequences of waiving those rights when he did not hear a complete recitation of the Miranda warnings.

"There are two distinct dimensions to the inquiry whether a suspect's waiver of his Miranda rights was voluntary, knowing, and intelligent. *United States v. Vinton*, 631 F.3d 476, 483 (8th Cir. 2011). The waiver must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception, and the suspect must have waived his rights with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. We consider the totality of the circumstances in determining whether a suspect's waiver is valid.

"We find no error in the district court's conclusion that Robinson made a knowing and voluntary waiver of his rights. As the district court noted, the record demonstrates that Officer Siferd provided the full Miranda warnings but does not conclusively demonstrate that Robinson was unable to hear the entirety of the Miranda warnings because of his interruptions while Officer Siferd was reciting them. And, after Officer Siferd finished reading the warnings, Robinson affirmed that, despite any crosstalk, he 'understood everything' before twice stating that he wished to waive his rights. Further, Robinson had multiple past interactions with law enforcement, and a history of interaction with the criminal justice system supports an inference that an interviewee is familiar with his constitutional

rights and that his statements to the police are voluntary. The district court thus did not err in concluding that Robinson waived his Miranda rights."

READ THE COURT OPINION HERE:

<https://ecf.ca8.uscourts.gov/opndir/25/06/242416P.pdf>

SEARCH AND SEIZURE: Affidavit; Probable Cause to Believe the Place to be Searched Contained Evidence of a Crime

United States v. Silva, CA2, No. 24-2180, 7/24/25

Bruce Silva was detained pending his criminal trial on various charges, including firearms, racketeering-conspiracy, and wire-fraud, related to his alleged involvement in the Dub City street gang.

The government applied for a warrant to search Silva's cell phone. In support, it submitted an affidavit from New York City Police Department detective Joseph Boyer (the "Bayer Affidavit" or "Affidavit"). Boyer averred based on his "conversations with a confidential informant" that Silva was a member of Dub City, which allegedly operates in the Bronx.

Boyer set forth the facts recounted above, along with the government's case for probable cause to believe that Silva had committed various firearms, racketeering-conspiracy, and wire-fraud offenses. The Affidavit then identified the purported link between the alleged crimes and the cell phone. Boyer stated that he "has participated in numerous gang and homicide investigations that have involved, amongst other things, executing search warrants, including warrants involving electronic evidence, conversations and drug records, and the retrieval and analysis of

cellphone and social media data. He averred that “through his training, education, and experience, he has become familiar with the manner in which violent crimes are planned and executed,” “the way gangs operate,” and “the manner in which gang members and individuals engaged in violent crime use” cell phones “in connection with such activity.” He asserted that individuals such as Silva “often use” their cell phones to “arrange and coordinate their illicit activities”; “often have” inculpatory “photographs and videos” of “the tools and proceeds of their criminal activities (such as firearms and cash proceeds)” on such devices; and “frequently use cellular devices to coordinate their flight and evade law enforcement.” The Affidavit concluded that “there is probable cause to believe that” Silva’s cell phone “contains evidence of his participation in Dub City,” his commission of the offenses described, “his flight from justice” following his failure to appear at the state-court proceeding, and “his consciousness of guilt for the August 2019 shooting.”

A magistrate judge approved the requested warrant. The warrant authorized a search for certain categories of information related to the alleged crimes stored in specific places on Silva’s cell phone. Law enforcement officers subsequently executed the search.

The Court of Appeals for the Second Circuit stated that in granting Silva’s motion to suppress, the district court misapprehended the probable-cause standard in two respects.

“First, a warrant may issue where there is probable cause to believe that the place to be searched contains evidence of a crime, regardless of whether there is probable cause indicating that the target of the investigation used the property in furtherance of the criminal conduct.

“Second, while a law-enforcement affiant’s claim to expertise with a particular category of crime may not, standing alone, support the requisite linkage between the alleged crime and the place to be searched, the Boyer Affidavit supplied other independent factual allegations tending to corroborate probable cause to search Silva’s cell phone. The Affidavit included a confidential informant’s statement that Silva committed financial and other crimes as a member of the Dub City street gang, which might reasonably suggest his electronic devices would contain relevant communications and information. In addition, the Boyer Affidavit averred that the cell phone was the only device found on Silva’s person upon his arrest. These factual statements and Boyer’s claim of expertise with gang-related crimes together established the requisite nexus between Silva’s alleged crimes and his cell phone.”

READ THE COURT OPINION HERE:

https://ww3.ca2.uscourts.gov/decisions/isysquery/d2a6be92-3129-4536-9eb8-89ca9aa0ec10/1/doc/24-2180_opn.pdf#xml=https://ww3.ca2.uscourts.gov/decisions/isysquery/d2a6be92-3129-4536-9eb8-89ca9aa0ec10/1/hilite/

SEARCH AND SEIZURE: Collective Knowledge; Probable Cause; Automobile Exception

United States v. Hernandez-Rodriguez, CA1, No. 24-1534, 8/11/25

Dinelson Hernandez-Rodriguez was stopped by a Connecticut state trooper while driving a vehicle that was under surveillance by the Drug Enforcement Administration (DEA) as part of a lengthy investigation into a Boston-based drug trafficking operation. The DEA had linked the vehicle and its occupants to the transport of cocaine from New York to Boston and the return

of drug proceeds to New York. On the day of the stop, DEA agents observed Hernandez-Rodriguez interacting with suspected co-conspirators and driving the vehicle away from a location associated with drug activity. After the stop, a search of the vehicle uncovered \$240,200 in a hidden compartment.

The United States District Court for the District of Massachusetts denied Hernandez-Rodriguez's motion to suppress the cash, finding that the warrantless search was justified under the automobile exception to the Fourth Amendment because there was probable cause to believe the vehicle contained evidence of a crime. The court found that the DEA's extensive investigation, surveillance, and intercepted communications provided sufficient grounds for probable cause.

On appeal, the United States Court of Appeals for the First Circuit held that the collective knowledge of the DEA agents, imputed to the state trooper who conducted the stop, established probable cause to search the vehicle under the automobile exception. The court rejected the argument that the search was based on a mere "hunch," finding that the facts supported a fair probability that evidence of a crime would be found.

READ THE COURT OPINION HERE:

<https://www.ca1.uscourts.gov/sites/ca1/files/opnfiles/24-1534P-01A.pdf>

SEARCH AND SEIZURE: Curtilage; Officer Walks Up Driveway

United States v. Moses, CA3, No. 23-3078, 7/3/25

Ronell Moses was driving through his Pittsburgh suburb when Officer Dustin Hess, in a marked police SUV, smelled burnt marijuana and saw that Moses's car windows were tinted very dark, both of which are illegal. The officer followed Moses to his home, where Moses parked in his driveway. The officer walked up the driveway, searched Moses's car, and found a loaded, stolen pistol. Moses, a felon on probation, was arrested and charged with possessing a gun and ammunition as a felon.

The United States District Court for the Western District of Pennsylvania denied Moses's motion to suppress the gun rejecting his claim that the officer had invaded his home's curtilage without a warrant. Moses then pleaded guilty conditionally, preserving his right to appeal the curtilage issue.

The United States Court of Appeals for the Third Circuit Court held that the officer did not invade Moses's curtilage by walking halfway up the driveway, as the driveway was not an extension of Moses's home. The court also held that the officer's actions were constitutional and that Moses, as a felon on parole, could be prosecuted for possessing a gun.

The Court stated that the Fourth Amendment expressly protects houses. Yet as courts have long recognized, a house's boundaries stretch beyond its four walls to "the land immediately surrounding and associated with the home," meaning "the area to which extends the "intimate activity associated with 'the sanctity of a man's home and the privacies of life.'" *Oliver v. United States*, 466 U.S. 170 (1984). Think of someone's

porch, or his garden under the kitchen window. *Collins v. Virginia*, 584 U.S. 586 (2018). This area, falling outside the home proper but still protected as part of it from government snooping, is the curtilage. Police cannot enter it without probable cause and either a warrant or an exception to the warrant requirement.

Moses does not dispute that the officer had probable cause. But he insists that when the officer walked up the driveway to his car, the officer stepped into his home's curtilage without a warrant or applicable exception.

Whether an area is curtilage is a bottom-line legal conclusion that depends on factual findings. So courts considering curtilage challenges proceed in two steps. First, they find facts about the relevant part of the defendant's property—say, that the officer got within twenty feet of the defendant's front window. Those factual findings should still be reviewed for clear error. Second, courts give those facts legal meaning: curtilage or not.

The District Court applied the Dunn factors and concluded that the middle of Moses's driveway was not within his home's curtilage. Yet the test for whether an area is curtilage is not the Dunn factors themselves, but instead "whether the area in question is so intimately tied to the home itself that it should be placed under the home's 'umbrella' of Fourth Amendment protection.

The first screenshot from the officer's bodycam footage shows where Moses parked, filmed as the officer stood on the edge of the driveway. The officer walked up to the car and questioned Moses while standing at its passenger- and driver's-side doors. The next photo shows, from the officer's perspective, how far onto Moses's property he advanced. The part of the driveway where the officer was standing did not butt up

against Moses's house, as a front porch or side garden does. On the contrary, Moses's car was parked about twenty feet into a seventy-foot driveway, so the officer was still several dozen feet from the garage. The driveway was not secluded, but plainly visible from the street and on the path that any stranger might take to the front door. In short, Moses did not have a reasonable expectation of privacy in that part of his driveway like the one he has in his home.

Although the Dunn factors are not very illuminating here, they reinforce our holding. They ask:

- (1) how close the area was to the house;
- (2) whether it was enclosed with the house;
- (3) whether the homeowner apparently used it for domestic activities; and
- (4) how much Moses shielded it from the view of people passing by.

Our conclusion that Moses's driveway was not curtilage is buttressed by reasoning from curtilage's purpose: The rationale for protecting curtilage does not extend to this patch of driveway. Officers might try to violate someone's privacy at home by walking up to the living-room window or eavesdropping at the bedroom wall. Letting police do that, the Supreme Court has warned, "would significantly diminish" residents' privacy in their houses, a space protected by the Fourth Amendment. *Jardines*, 569 U.S. at 6. Of course, police may peer into someone's house from a public street. *California v. Ciraolo*, 476 U.S. 207. But if they sneak onto the homeowner's property to learn more about its interior than they could by observing it from a public place, then they have breached an area that protects the home's privacy—the curtilage.

On that view, the officer did not intrude upon Moses's curtilage. An officer would not expect to

see much more through the front windows when standing forty feet away from the house than he could when standing on the street. Nor would he think that by getting this close, he could better hear or smell what was going on inside. That tells us that the driveway is not the kind of area that the Fourth Amendment protects.

Whether we take a holistic view of curtilage, check off the Dunn factors, or reason from curtilage's purpose, the result is the same: The officer did not invade Moses's curtilage and so did not need a warrant or applicable exception to the warrant requirement.

READ THE COURT OPINION HERE:

<https://www2.ca3.uscourts.gov/opinarch/233078p.pdf>

SEARCH AND SEIZURE:

Evidence Obtained from Search of Phones

United States v. Reeves, CA8, No. 24-1548, 7/17/35

On September 26, 2019, shots were fired as two individuals drove past Reeves's parked blue SUV in University City, Missouri. No one was injured. Local police identified Reeves as the primary suspect, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives was brought in to assist in the investigation. Investigators suspected that he participated in firearms trafficking with family members. They also connected Reeves to a narcotics trafficking organization involving co-defendants Franklin Bell and Arrion Jones. Investigators believed that Reeves had taken on a role as an "enforcer" within the organization, and was tasked with arming himself to protect the organization's members, territory, and profits; to intimidate customers and competitors; and to retaliate against rivals when necessary.

On October 20, 2019, Jones was shot in the arm by rival drug traffickers while inside his girlfriend's apartment. Deronte McDaniels, an acquaintance of Jones, returned fire using Jones's Glock pistol, leaving a shell casing at the scene. In the aftermath, Reeves, McDaniels, Bell, Jones, and Jones's father discussed retaliating against the rival drug traffickers. At one point, McDaniels gave Reeves the Glock pistol he had used during the shootout. Seeking to evade law enforcement, Reeves booked a room at the Red Roof Inn in Bridgeton, Missouri. Reeves, two children of his, their mother, Bell, and McDaniels spent the night there.

The next day, on October 21, 2019, Reeves, Bell, and McDaniels departed from the Red Roof Inn and reunited with Jones. They then drove together to University City in a Toyota RAV4, which Reeves had rented. While driving around University City, McDaniels claimed to have spotted one of the rival drug traffickers from the previous day. The RAV4 pulled over, and Reeves, Bell, and McDaniels exited the vehicle armed with firearms. Jones, still recovering from his gunshot wound and wearing a sling on his arm, remained in the RAV4. Bell and McDaniels broke off from Reeves. Armed with the same Glock pistol used by McDaniels the day before, Reeves went through an alley by himself, where he spotted a nineteen-year-old bystander, David Anderson, in someone's backyard. Thinking that Anderson was the rival drug trafficker whom he was targeting, Reeves shot him. Anderson ultimately succumbed to his wounds. Bell and McDaniels then approached the area where Reeves shot Anderson and began firing their weapons. Soon after, the three of them returned to the RAV4 and fled.

Still under the impression that the victim was one of their rival drug traffickers, Reeves boasted in the RAV4 that he had killed the target. Later

investigations matched a shell casing from the murder scene to a shell casing from the previous day's shooting in the apartment. Investigators also collected eyewitness accounts of a male wearing all black running through an alley and then leaving in a silver or grey SUV. These descriptions matched surveillance footage of Reeves from the Red Roof Inn and of the silver Toyota RAV4.

Following these events, ATF agents intensified their investigation. They obtained precision location warrants on two of Reeves's cellphones, which they used to monitor his movements and activities. They learned that Reeves, Bell, and Jones consistently possessed firearms while selling fentanyl. They then sought to gather more evidence using confidential informants and undercover officers. On November 4, 2019, ATF agents set up a controlled buy in which an informant, wired with video and audio recording devices, purchased \$200 worth of fentanyl from Reeves, who was in Bell's car sitting on a pistol. On November 14, an informant purchased \$400 worth of fentanyl from Reeves, and then later that same day purchased a firearm from him for \$450. On November 19, an informant, in the presence of an undercover officer, purchased four grams of fentanyl and an "AR pistol" for \$1,050 total. Several other controlled buys of fentanyl involving Reeves's co-defendants occurred between November 2019 and January 2020.

The Eighth Circuit Court of Appeals addressed Reeves' motion to suppress evidence obtained pursuant to precision location warrants on his two cell phones.

"The Warrant Clause of the Fourth Amendment requires that warrants (1) be issued by a neutral and detached magistrate, (2) contain a 'particular description of the place to be searched, and

the persons or things to be seized, and (3) be based 'upon probable cause, supported by Oath or affirmation. The existence of probable cause depends on whether, under the totality of the circumstances, there is a fair probability evidence of a crime will be found in a particular place. This court gives great deference to the issuing magistrate judge's decision regarding the existence of probable cause in an affidavit.

"Reeves asserts that the warrants were not supported by probable cause. The record suggests otherwise. The ATF agent who submitted the warrant request and affidavit included the following evidence: on September 26, 2019, two individuals were shot at while driving past Reeves's parked blue Dodge Durango, one of whom returned fire; on September 27, 2019, Reeves called University City police, using one of his cell phones, to obtain information about the shooting; on September 30, 2019, Reeves's cousin was stopped by St. Louis police officers while driving the blue Dodge Durango, which had bullet holes in the interior and exterior, and police found a pistol in the car; and investigators confirmed that Reeves used the two phones. The affidavit also explained that Reeves actively used the target phones during the commission of his crimes and that the searches would likely lead to evidence of the crimes. Taken together, there was enough information to support a finding that there existed a fair probability that evidence of a crime will be found through a search of the precision location data of both of Reeves's phones.

"Reeves argues that the warrants were not sufficiently particular. His argument is unavailing. The warrants each included attachments that specified the phone numbers for which certain records—including precision location data, cell site information, pen registers, and trap and

trace devices related to both numbers—were requested.

“Finally, Reeves contends that the Government’s warrant returns insufficiently catalogued the inventory seized. As a result, he claims, he was prejudiced because he was left with no way of determining whether the searches exceeded the scopes of the warrants. We disagree. An officer executing a search and seizure warrant must prepare and verify an inventory of any property seized. A review of the warrant returns plainly demonstrates that the officers complied with this requirement: both returns list as the inventory seized ‘precision location information,’ beginning on exact dates and times, for the respective cell number. The warrant returns provided Reeves with sufficient information to determine whether the searches exceeded the scopes of the warrants.”

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca8/24-1548/24-1548-2025-07-17.pdf?ts=1752766225>

SEARCH AND SEIZURE: Impoundment of Vehicle was Lawful Under Community Caretaking Exception

United States v. Vick, CA1, No. 24-1721, 7/30/25

Police officers arrested Charlie Vick for domestic assault and battery involving a firearm. After his arrest, officers discovered that the car he had been driving was uninsured, unregistered, and had invalid license plates. They waited until Vick’s uncle attempted to drive the car away and then stopped him shortly after he exited the parking lot. The officers impounded the car and conducted an inventory search, which revealed a gun.

Vick was subsequently charged with being a felon in possession of a firearm. The United States District Court for the District of Massachusetts ruled that the officers had staged the impounding and that their sole motive for the search was investigatory. Consequently, the court ordered the suppression of the evidence found during the search. The government appealed.

The United States Court of Appeals for the First Circuit agreed with the government that the district court’s finding of a sole investigatory motive was clearly erroneous. The appellate court noted that the officers had an objectively reasonable basis for impounding the car, as it was unregistered, uninsured, and had invalid plates, making it a safety hazard. The court also found that the officers’ decision to impound the car was lawful under the community caretaking exception to the Fourth Amendment’s warrant and probable cause requirements. Consequently, the appellate court reversed the district court’s grant of the motion to suppress and remanded the case for further proceedings.

READ THE COURT OPINION HERE:

<https://law.justia.com/cases/federal/appellate-courts/ca1/24-1721/24-1721-2025-07-30.html>

SEARCH AND SEIZURE:

Moving a Cell Phone was not a Search

United States v. Puckett, CA8, No. 24-1293, 6/11/25

A Missouri state trooper stopped Billy Puckett for minor traffic violations, during which Puckett disclosed his status as a registered sex offender. The trooper invited Puckett into his patrol car while checking his license and registration. During this time, the trooper learned that Puckett had not registered any social media accounts as

required by Missouri law. The trooper then asked for and received consent to search Puckett's vehicle. While searching, the trooper picked up Puckett's cell phone, which illuminated to reveal social media app icons. The trooper questioned Puckett about the phone and, after repeated requests, obtained Puckett's verbal consent to search the phone. The search revealed images suspected to be child pornography, leading to Puckett's arrest. After being read his Miranda rights, Puckett made further incriminating statements. A subsequent warrant-based search of the phone uncovered additional illegal material.

The United States District Court for the Western District of Missouri denied Puckett's motion to suppress the evidence from the cell phone and his statements to law enforcement. , adopting a magistrate judge's recommendation. Puckett was convicted of receiving child pornography.

The United States Court of Appeals for the Eighth Circuit reviewed the case. It held that the trooper's brief questioning and request for consent did not unlawfully prolong the traffic stop. The court found that moving the cell phone during a consensual vehicle search did not constitute an unlawful search or seizure, and that the defendant voluntarily consented to the phone search. The court also determined that the defendant was not in custody for Miranda purposes during pre-arrest questioning, so suppression of his statements was not warranted. The district court's judgment was affirmed.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca8/24-1293/24-1293-2025-06-11.pdf?ts=1749655823>

SEARCH AND SEIZURE: Officer Instructs Driver to Lower Tinted Window

United States v. Williams, DCC, No. 23-3044, 8/26/25

Police officers in Washington, D.C., approached a car that was illegally parked and had windows tinted beyond legal limits. When the officers tapped on the window, the driver, Ronnard Williams, lowered it only slightly, making it difficult for the officers to see inside. The officers then ordered Williams to lower the windows further. After he complied, the officers saw a firearm at the feet of a backseat passenger. The officers opened the door, seized the gun, and arrested Williams and the passenger. A subsequent search revealed another gun, marijuana, and cash.

In the United States District Court for the District of Columbia, Williams moved to suppress the evidence, arguing that the order to lower the windows constituted an unreasonable search under the Fourth Amendment.

On appeal, the United States Court of Appeals for the District of Columbia Circuit held that, under *Pennsylvania v. Mimms*, police may order a driver to exit a vehicle during a lawful stop due to officer safety concerns, and that the same reasoning applies to ordering a driver to lower tinted windows. The court found that the minimal intrusion of lowering a window is outweighed by the government's legitimate interest in officer safety. The court affirmed the district court's denial of the suppression motion and upheld Williams's conviction.

READ THE COURT OPINION HERE:

<https://media.cadc.uscourts.gov/opinions/docs/2025/08/23-3044-2132043.pdf>

SEARCH AND SEIZURE:**Pole Mounted Surveillance Camera**

United States v. Green, DCC, No. 23-3100, 8/12/25

Police responded to reports of gunfire at a rowhouse in Washington, D.C., where they found spent shell casings but no suspects. Reviewing footage from a pole-mounted surveillance camera, officers observed a man firing a gun from the rear of the residence and later identified him as Demetrius Green. A search warrant executed that day at the residence uncovered large quantities of narcotics, digital scales, and a firearm. Green attempted to flee but was apprehended inside. Evidence linking Green to the residence included identification cards, personal items, and data from his cellphone, which contained a photograph of a bag of powder on a scale and a text message referencing drug sales.

The United States District Court for the District of Columbia denied Green's motion to suppress the pole-camera footage, finding he lacked a reasonable expectation of privacy in the area surveilled. The court also admitted the challenged exhibits from Green's cellphone, determining they were relevant to show knowledge and intent, and that any risk of unfair prejudice could be mitigated by a limiting instruction.

The United States Court of Appeals for the District of Columbia Circuit affirmed his conviction. The court held that the use of the pole camera did not constitute a search under the Fourth Amendment because the area surveilled was exposed to public view and the surveillance was brief. The court also found the evidence sufficient to establish Green's constructive possession of the drugs, given his connection to the residence and the items found.

READ THE COURT OPINION HERE:

<https://media.cadc.uscourts.gov/opinions/docs/2025/08/23-3100-2129674.pdf>

SEARCH AND SEIZURE:**Probable Cause; Automobile Exception**

United States v. Watson, CA6, No. 24-3679, 7/9/25

This case arose from a traffic stop on December 5, 2020, where Jtton Edward Watson was stopped for driving past a stop bar at a traffic light. During the stop, Watson refused to provide identification and was subsequently arrested. A search of his vehicle revealed marijuana and a loaded firearm. Watson challenged the traffic stop, his arrest, and the vehicle search as violations of his Fourth Amendment rights.

The United States District Court for the Southern District of Ohio denied Watson's motion to suppress the evidence. The court found that the initial traffic stop was supported by probable cause, the arrest was justified by probable cause, and the vehicle search was permissible under the automobile exception.

The United States Court of Appeals for the Sixth Circuit affirmed the district court's decisions. The appellate court agreed that the traffic stop was justified by probable cause due to the observed traffic violation. The arrest was deemed lawful based on probable cause for multiple offenses, including driving with a suspended license and refusing to provide identification. The search of the vehicle was upheld under the automobile exception, as the officers had probable cause to believe it contained illegal contraband.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca6/24-3679/24-3679-2025-07-09.pdf?ts=1752091232>

SEARCH AND SEIZURE: Probable Cause in Search Warrant Affidavit in a Drug Investigation

United States v. Higgins, CA6, No. 24-5331, 6/27/25

From June to August 2021, Rodney Higgins participated in a methamphetamine and fentanyl distribution ring. While officers were investigating Higgins and his co-conspirators, they used a confidential source to conduct two controlled buys of methamphetamine from Higgins.

As part of this investigation, a Drug Enforcement Administration task force officer prepared an affidavit in support of a search warrant for Higgins's apartment located at Rapid Run Drive. That affidavit detailed the officer's training and experience; how he came into contact with the confidential source; the confidential source's knowledge of Higgins's extensive drug dealing; Higgins's criminal history; the two controlled buys with the confidential source; and the location of the Rapid Run apartment and the fact that Higgins resided there.

The affidavit also recounted a text exchange between the confidential source and Higgins. The day before officers presented the magistrate judge with the warrant, Higgins texted the confidential source that he had "more clear" and "more of that slow." The confidential source, in turn, told law enforcement that "clear" was code for methamphetamine, and "slow" was code for "heroin, fentanyl, or a combination of the two." Higgins had texted the source to come to Higgins's "crib," and also told the source over the phone to come to Higgins's apartment "to complete the transaction." Based on all this information, a magistrate judge found probable cause and issued a warrant to search Higgins's apartment.

The search of Higgins's apartment turned up 370 grams of a substance that tested positive for methamphetamine and over 200 grams of a substance that tested positive for fentanyl. Higgins pled guilty to possession with intent to distribute methamphetamine and fentanyl. He appealed, challenging the search that led to his arrest, arguing that the search warrant lacked probable cause.

The Court of Appeals for the Sixth Circuit found as follows:

"Probable cause is not a high bar to meet. District of *Columbia v. Wesby*, 583 U.S. 48, (2018). It requires only a 'fair probability' that an officer will find contraband or evidence of a crime. *United States v. Whitlow*, 134 F.4th 914, 919 (6th Cir. 2025). Further, there must be a 'nexus' between the evidence sought and the place to be searched. *United States v. Sanders*, 106 F.4th 455, (6th Cir. 2024). That is, officers must provide direct or circumstantial support to create more than mere suspicion' that contraband will be found at the location in question. This warrant meets those requirements.

"Start with the affidavit supporting the warrant. It showed that Higgins engaged in drug trafficking. And it linked Higgins's drug trafficking to his apartment.

"The affidavit began by reporting how officers zeroed in on Higgins: a confidential source had received about a pound of methamphetamine from Higgins. The officers then used that source to conduct two controlled buys of methamphetamine from Higgins. Further, the confidential source also stated that the source had received one pound or more of methamphetamine from Higgins on at least 10 prior occasions. The affidavit also referenced Higgins's extensive history with drug

dealing, including serving a seven-year sentence for trafficking in controlled substances.

“And why did officers decide to search the River Run apartment? For one, Higgins resided there, as he was listed as a tenant at the apartment. That fact, coupled with evidence of Higgins’s continual drug dealing, alone suffices to provide probable cause to search the apartment. See *Sanders*, 106 F.4th at 466 recognizing that probable cause to search a known drug dealer’s residence is established where the dealer is engaged in continual and ongoing operations typically involving large amounts of drugs; see also *United States v. Simmons*, 129 F.4th 382, 387 (6th Cir. 2025) (recognizing known drug-dealer status can be established through extensive or repeated drug dealing, as well as a record of past drug convictions).

“The affidavit had additional information establishing probable cause to search the apartment. According to the affidavit, Higgins had texted the confidential source that he had obtained more ‘clear’ and ‘slow,’ slang for methamphetamine and some combination of heroin and fentanyl, respectively. The next day, Higgins directed the source to come to his ‘crib.’ And when law enforcement instructed the source to place a recorded phone call to Higgins, Higgins directed the source to come to his apartment to complete the drug transaction. That same day, the officers applied for a warrant to search the apartment in question. All told, Higgins was an active drug dealer who had just directed his repeat customer to come to his residence to buy drugs. This all creates a ‘fair probability’ that contraband would be found in Higgins’s apartment.”

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca6/24-5331/24-5331-2025-06-27.pdf?ts=1751032815>

SEARCH AND SEIZURE:

Search by a Private Person

United States v. Hines, CA2, No. 23-7032, 6/11/25

William Hines argued that his girlfriend, K.S., acted as an agent of the police when she used his password to unlock his cellphone, observed child pornography, and showed the images to a police officer, thus violating his Fourth Amendment rights.

The Court of Appeals for the Second Circuit held that when a defendant challenges a search conducted by a private party, the burden lies with the defendant to show that the search constituted governmental action implicating the Fourth Amendment—not with the government to show the absence of governmental action.

“Here, we conclude that the district court did not err in determining, after conducting an evidentiary hearing, that Hines failed to meet his burden of demonstrating that his girlfriend acted as a de facto government agent when she unlocked his cellphone and showed the images of child pornography to the police officer. Moreover, because that private search of his cellphone did not implicate the Fourth Amendment, the district court correctly determined that the use of evidence derived from that private search in a subsequent search warrant application does not provide a basis to suppress evidence obtained from devices searched pursuant to that warrant.”

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca2/23-7032/23-7032-2025-06-11.pdf?ts=1749652251>

SEARCH AND SEIZURE:**Search Incidental to Arrest**

State of Iowa v. Scullark, ISC, No. 23-1218, 6/20/25

Officer Jacob Bolstad investigated a domestic abuse call involving Patrick Wayman Scullark. Officer Bolstad went to the residence Scullark was known to be, where he found Scullark sitting on the tailgate of a truck outside. Scullark was talking on the phone and was in an emotional, distressed state about going back to jail. When Officer Bolstad attempted to talk with Scullark, Scullark bolted inside the residence despite Officer Bolstad's order to stay outside. Officer Bolstad followed. Inside the residence, Scullark remained agitated and emotional. He was adamant that he could not go back to jail.

During their encounter, Scullark was wearing a fanny pack around his waist. Officer Bolstad told Scullark that he was going back to jail and started to handcuff him. Scullark pulled away to remove the fanny pack from his waist, told Officer Bolstad "don't touch me right now," and attempted to hand the fanny pack and other items to one of his companions standing nearby. At this point, Scullark was not yet handcuffed, and Officer Bolstad was the only officer on the scene. To prevent escalating the already emotional situation, Officer Bolstad did not oppose the handoff. After Scullark handed the items to his companion, Officer Bolstad handcuffed Scullark behind his back and advised the companion to set the items down because he was going to search the items and bring them to the jail.

Other officers arrived at the scene as Officer Bolstad led Scullark out of the residence to the patrol car. As the two walked out, Officer Bolstad picked up the fanny pack and other items. He testified at the suppression hearing that, at this point, Scullark was unable to access the fanny pack and its contents.

Two of Scullark's companions followed Officer Bolstad and Scullark outside, protesting the search of the fanny pack and its transport to the jail. They attempted to grab the contents of the fanny pack from the officers as Officer Bolstad conducted a pat-down search of Scullark outside the patrol car and another officer searched the fanny pack nearby. Officer Bolstad joined the search of Scullark's fanny pack after placing Scullark in the back of his patrol car. The officers found a clear baggy containing methamphetamine inside the fanny pack.

The State charged Scullark with possession of a controlled substance with intent to deliver. The district court found the search of the fanny pack valid as a search incidental to arrest and denied Scullark's motion to suppress. Scullark entered a conditional guilty plea preserving his right to challenge the denial of his motion to suppress.

Upon review, the Iowa Supreme Court ruled as follows:

"Under the Fourth Amendment, a warrantless search is per se unreasonable, and therefore, unconstitutional, 'subject only to a few narrow and well-delineated exceptions.' *Williams v. United States*, 401 U.S. 646, (1971). One such exception to the warrant requirement is a search conducted incidental to a lawful arrest. See *Chimel v. California*, 395 U.S. 752, (limiting the scope of a search incidental to a lawful custodial arrest to the arrestee's person and the area within his immediate control—i.e., 'the area from within which one might gain possession of a weapon or destructible evidence.')

"Searches of the arrestee's person are treated differently from a search of the area within the arrestee's reach. *United States v. Robinson*, 414 U.S. 218, (1973). The Supreme Court recognized that the validity of the search of a person incident

to a lawful arrest has been regarded as settled from its first enunciation. In *Robinson*, a police officer searched the arrestee's coat pocket and a cigarette pack he found in it incident to a lawful custodial arrest. The Court set out a categorical rule that officers may conduct a full search of the arrestee's person and the items immediately associated with the person without regard to the justifications supporting the search incidental to arrest exception.

"Scullark argues that the reaching-distance rule applies to the search at issue here instead of the categorical *Robinson* rule. We disagree. We conclude that because the fanny pack was attached to his person at the time of the arrest, this is a search of the person, governed by *Robinson*—rather than a search of the area within his immediate control, governed by *Chimel*. A lawful custodial arrest justifies a warrantless search of the person, as long as the search is contemporaneous with the arrest.

"Here, the officers searched the fanny pack while still at the scene and within minutes of Scullark's arrest. Officers need not expose themselves to unnecessary danger by searching the arrestee and the items on his person before he is properly secured. The police may see to the safe custody and security of suspects first and then make the limited search which the circumstances of the particular case permit. The search incident to arrest rule respects that an officer who takes a suspect into custody faces an unpredictable and inherently dangerous situation and that officers can and should put their safety first.

"We therefore conclude that because Scullark was wearing the fanny pack around his waist at the time of arrest, the fanny pack was immediately associated with his person for purposes of the search incidental to arrest exception, and the

categorical rule from *Robinson* precedent applies. The search of the fanny pack was reasonable as a search of Scullark's person, and no additional justification for the search was required beyond Scullark's lawful custodial arrest."

READ THE COURT OPINION HERE:

<https://cases.justia.com/iowa/supreme-court/2025-23-1218.pdf?ts=1750426911>

SEARCH AND SEIZURE: Smell of Marijuana From Hotel Room; Search Warrant Supported by Probable Cause

United States v. Tate, CA8, No. 24-2617, 6/15/24

Bismarck Police Department Patrol Officer Zachary Collins walked into a local hotel as part of his routine patrol and smelled marijuana in the front entrance. He then smelled room doors, going door to door until he was able to detect an odor of marijuana emitting from Room #118. After identifying the scent coming from Room 118, he continued down the hall, smelling a few more doors in the area to confirm the marijuana smell was not coming from a nearby room.

Confident that the smell was coming from Room 118, Collins asked a hotel employee to provide him with a guest list. The list showed that Room 118 was being rented to Tate, who had presented a Michigan ID when he had checked into the hotel. Collins had investigated Tate before and knew Tate had a criminal history involving drugs and weapons. Tate's name did not appear in North Dakota's identification systems, which meant he could not legally possess marijuana in the state. Collins also learned that Tate had originally booked his room for just one night, but had extended his stay an additional night. Finally, hotel staff told Collins that Tate had specifically requested that he be given a room with a safe and that he had

informed staff his safe was not working when he first checked in.

Collins sought a warrant to search Room 118. In his affidavit in support of the search warrant, Collins stated that he had identified Room 118 based on smell—something he had been trained to do. He also included what he had learned about Tate and noted that it is not uncommon for individuals to come from Michigan to North Dakota to sell illicit drugs, that it is not uncommon for these individuals to stay at hotel rooms, extending their stay day to day, and that it is common for safes to be used to store cash, illicit drugs, and firearms. Finally, he briefly summarized Tate’s applicable criminal history and stated his belief that there was probable cause to believe marijuana and related paraphernalia were present in Room 118.

The warrant was issued that evening and executed the following morning. Tate, who had been alone in Room 118, was detained in the hotel lobby prior to the search of the room. Inside Room 118, officers found 2,879 fentanyl pills and more than \$15,000 in cash in the safe.

The U.S. District Court for North Dakota found that the search warrant was supported by probable cause and the search did not exceed the warrant’s scope. Tate appealed the denial of his motion to suppress.

The U.S. Court of Appeals for the Eighth Circuit held that the smell of marijuana alone provided substantial support for probable cause, especially given the officer’s training and experience. The court also found that the search did not exceed the warrant’s scope. The court affirmed the district court’s denial of Tate’s motion to suppress.

READ THE COURT OPINION HERE:

<https://ecf.ca8.uscourts.gov/opndir/25/06/242617P.pdf>

SEARCH AND SEIZURE: Small Amount of Marijuana Provides Reasonable Suspicion for Stop and Probable Cause for Arrest

United States v. Santiago, CA6, No. 24-5762, 6/6/25

Detectives from the Metropolitan Nashville Police Department observed Edwin Santiago arriving at a car dealership in a vehicle emitting a strong odor of marijuana. Santiago exited the car, and the detectives noticed a pistol on his waistband. Suspecting Santiago of possessing a firearm while under the influence of marijuana, the detectives detained him. During the detention, they discovered Santiago was a felon, leading to his arrest and subsequent indictment for being a felon in possession of a firearm.

The United States District Court for the Middle District of Tennessee held a suppression hearing where the detectives and a witness testified about the marijuana odor. The court found the detectives’ testimony credible and ruled that the odor provided reasonable suspicion for the stop and probable cause for the arrest.

The United States Court of Appeals for the Sixth Circuit affirmed the district court’s decision, holding that the smell of marijuana provided reasonable suspicion for the stop and probable cause for the arrest.

READ THE COURT OPINION HERE:

<https://www.opn.ca6.uscourts.gov/opinions/pdf/25a0149p-06.pdf>

SEARCH AND SEIZURE: Stop and Frisk; A Terry Stop Based Solely on the Fact that an Individual is Carrying a Firearm

United States v. Wilson, CA5, No. 23-30777, 7/17/25

On March 16, 2022, federal agents stopped Damion Wilson pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968). As he was approaching Wilson, Deputy U.S. Marshal Michael Atkins “noticed a bulge in Wilson’s waist area” that seemed like “a hard object.” Based on his training, Deputy Atkins believed the object was a concealed firearm. Atkins and other federal agents then ordered Wilson to stop and put his hands up. Wilson complied. The agents asked Wilson if he was armed, and he replied that he was. The agents ordered Wilson to drop the backpack he was wearing, to turn around, and to place his hands behind his back. The agents handcuffed him. While Wilson was being cuffed, Deputy Atkins asked him if he had a concealed weapons permit. Wilson admitted that he did not.¹ The agents took the gun—which was loaded with an extended magazine—from Wilson.

Deputy Atkins told Wilson that he was not under arrest and that agents wanted to talk to him about Wilson’s friend—a federal fugitive named Malik Fernandez. Wilson denied having seen or spoken to Fernandez in six years. However, on Wilson’s public Instagram account, officers found a photo of Wilson and Fernandez together that had been posted approximately four months earlier.

Local police then arrested Wilson for carrying a firearm without a permit. Incident to that arrest, officers searched Wilson’s backpack and found marijuana. Officers then obtained a search warrant for Wilson’s apartment and found more marijuana, drug paraphernalia, and approximately \$1,700.

Wilson moved to suppress all physical evidence and statements arising from the March 2022 Terry stop and subsequent arrest. The district court denied the motion. The court found that the agents had reasonable suspicion to stop Wilson based on Deputy Atkins’ observation of a bulge that appeared to be a concealed firearm. Pretermitted whether the officers’ search of Wilson’s backpack was lawful, the court held that the backpack’s contents would have been inevitably discovered through an inventory search at the jail after Wilson’s arrest for unlawfully carrying a firearm. The court also held that the fruits of the stop and search were not suppressible.

Upon appeal, the Court of Appeals for the Fifth Circuit found as follows:

“The principal question presented is whether police can Terry stop a citizen based solely on the fact that he is carrying a firearm. The answer is emphatically ‘no.’ The Court nevertheless upheld the Terry stop in this case on other grounds.

“At the time of Wilson’s arrest, Louisiana law prohibited the intentional concealment of any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, on one’s person. But the prohibition did not apply to a person with a valid concealed handgun permit. The Supreme Court of Louisiana had described this statutory scheme as not a complete ban on the carrying of concealed weapons, but instead merely a prohibition on carrying a concealed firearm in public without a permit.

“The district court determined that this statutory scheme made carrying a firearm presumptively unlawful. And in accordance with certain out-of-circuit precedents, it held that the presumption

justified Terry stopping anyone carrying a firearm anywhere in the State of Louisiana.

“The right to keep and bear arms in this country may be considered as the true palladium of liberty. True, a particular person could keep or bear a particular firearm in an unlawful way. But an officer cannot search or seize a person simply because he is keeping or bearing a firearm—any more than an officer can search or seize a person simply because he is keeping or bearing a piece of paper.

“The Court stated that to perform a Terry stop, officers must have reasonable suspicion that criminal activity may be afoot. Reasonable suspicion requires only some minimal level of objective justification for making the stop. Although a mere hunch does not create reasonable suspicion, the level of suspicion the standard requires is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause. This less demanding standard allows officers to make common sense judgments and inferences about human behavior.

“When reviewing reasonable suspicion, we consider the totality of the circumstances—the whole picture. The totality of the circumstances test allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person. Relevant facts and considerations may include a description of a suspect, a suspect’s location and proximity to known or reported criminal activity, the timeliness of information or the stop, a suspect’s behavior, and the officer’s experience. Facts that appear innocent when viewed in isolation can constitute reasonable suspicion when viewed collectively.

“In this case, officers had ample reasonable suspicion to stop Wilson—separate and apart from the fact that he was a gun owner.

“Officers did not approach or stop Wilson only because they suspected him of carrying a gun. They approached and stopped him because they wanted to interview him about his friend Fernandez, who was a federal fugitive involved in a marijuana-trafficking-related shootout. So Wilson’s proximity to known or reported criminal activity was a factor supporting reasonable suspicion. And it is well established that a “suspect’s companionship with or propinquity to an individual independently suspected of criminal activity is a factor to be considered in assessing the reasonableness of a seizure.

“Many facts known to the officers connected Wilson to Fernandez at the moment of the Terry stop: Fernandez’s last known address was a home that belonged to a member of Wilson’s family. Three people living there told Deputy Atkins that Fernandez’s last known location was with Wilson and that if Deputy Atkins wanted to find Fernandez, he needed to find Wilson because they’re always known to be together and the two were like brothers. Once officers arrived at Wilson’s apartment complex, Deputy Atkins showed pictures of Fernandez to neighbors and complex employees. And, critically, they told Deputy Atkins that they had seen Fernandez in and around Wilson’s apartment often, including within the last week.

“All of that alone would give officers reasonable suspicion to Terry stop Wilson for, at a minimum, his potential involvement in drug trafficking or harboring a federal fugitive. Moreover, when officers approached Wilson, they were aware of his criminal history. Deputy Atkins and the other officers knew that Wilson had recently been

charged with (1) possession with the intent to distribute drugs and (2) possession of a firearm in furtherance of a drug trafficking crime.

“Thus, this is not a case of officers stopping someone simply because they presumed he was a criminal based solely on the fact he was carrying a gun in Louisiana. The officers had ample grounds to think criminal activity was afoot—even before Deputy Atkins saw the bulge in Wilson’s waistband. Under such circumstances, precedent plainly allowed the officers to conduct a Terry stop and a protective search.”

READ THE COURT OPINION HERE:

<https://www.ca5.uscourts.gov/opinions/pub/23/23-30777-CR0.pdf>

SEARCH AND SEIZURE: Stop and Frisk; Lack of Reasonable Suspicion of Wrongdoing

United States v. Tyler, CA10, No. 24-6035, 6/16/25

Oklahoma City Police officers received a tip that Karen Gonzalez, who had an outstanding arrest warrant, was at a Days Inn. Officers surveilled the area and followed a car they believed she entered to a gas station.

Gonzalez left the gas station store and returned to the front passenger seat of the car. They confirmed her identity. Jonas Tyler was either standing next to or partially inside the car on the driver’s side. Officers approached the car with their guns drawn and yelled at Tyler and the two female passengers not to move and to show their hands. Tyler complied with instructions to walk towards Sergeant Teague with his hands up, and he was then handcuffed and extensively patted down before being put in the back of a police car. Sergeant Teague also took Tyler’s cell phone and put it in the Chevy, where Tyler could not access it.

As Tyler was being detained and searched, Officer Harman removed a woman from the back seat of the gold Chevy, handcuffed her, and told her to sit on a curb, where Lieutenant Merits kept watch over her. Next Officer Harman pulled Gonzalez out of the front passenger seat, handcuffed her, and brought her over to the same curb, where she sat calmly for the rest of her time at the gas station.

While this was going on, Sergeant Teague called for a female officer to come to the scene so she could conduct a pat down of Ms. Gonzalez. He then started talking to Tyler. Sergeant Teague asked Tyler if the car belonged to him and Tyler said it did. Sergeant Teague asked Tyler whether there was anything of interest in the car. Tyler said no and asked what was going on. Sergeant Teague told him that Gonzalez had a warrant out for her arrest. Tyler looked surprised, and Sergeant Teague told him to watch the company he kept.

Sergeant Teague then asked if he could search Tyler’s car. Tyler said no, noting that he had nothing to do with whatever Gonzalez had done. At that point, Sergeant Teague shut the back door of his patrol car, leaving Tyler handcuffed in the back seat, and went to talk with the other officers. He told them Tyler objected to a search but noted that a K-9 unit was in the area. He decided to call for the K-9 and handler to come to the scene so the dog could sniff Tyler’s car.

Nearly fifteen minutes after Tyler’s detention began, and at least ten minutes after the officers had finished arresting Gonzalez, Officer Keegan Burris and his K-9 dog arrived and began to conduct an open-air dog sniff. The dog alerted to Tyler’s car, and the officers proceeded to search it. They found a firearm and about six grams of suspected fentanyl pills. Sometime after Officer Burris and his K-9 dog arrived, a female officer came to pat down the two women.

The United States District Court for the Western District of Oklahoma denied Tyler's motion to suppress the evidence found in his car. Tyler then entered a conditional guilty plea, reserving his right to appeal the suppression ruling.

The United States Court of Appeals for the Tenth Circuit found that Tyler's continued detention after the arrest of Gonzalez was unreasonable and violated his Fourth Amendment rights. The court held that the government did not have a sufficient justification for detaining Tyler beyond the initial arrest of Gonzalez, as there was no reasonable suspicion of wrongdoing or dangerousness on his part. Consequently, the court vacated Tyler's conviction and sentence and remanded the case for further proceedings consistent with their opinion.

READ THE COURT OPINION HERE:

<https://www.ca10.uscourts.gov/sites/ca10/files/opinions/010111250590.pdf>

SEARCH AND SEIZURE: Stop and Frisk; Reasonable Suspicion Existed for Stop and Frisk

United States v. Smith, CA6, No. 24-1655, 6/9/25

Lavonce Makiri Smith was stopped by police and a gun was found in his pocket. Smith moved to suppress the evidence, arguing that police lacked reasonable suspicion to stop and frisk him. The incident began when Det. Garza was involved in a car accident, and Lt. Jonathan Wu, who was also at the scene, noticed a silver Chrysler that matched a stolen vehicle report. The Chrysler circled the area multiple times, and Wu observed three young Black men, including Smith, walking towards his car from the direction of the Chrysler. Wu suspected they were associated with the stolen car and might be planning a carjacking or robbery.

The United States District Court for the Western District of Michigan held an evidentiary hearing where Wu testified. The court found Wu's testimony credible and concluded that the officers had reasonable suspicion to stop and frisk Smith. The court ruled that the stop was lawful due to the reasonable suspicion of criminal activity, and the frisk was justified based on the totality of the circumstances suggesting Smith was armed and dangerous.

The United States Court of Appeals for the Sixth Circuit affirmed the district court's decision, holding that the stop was supported by reasonable suspicion. The court found that Wu's observations and the behavior of Smith and his companions, combined with the context of the stolen vehicle and the high-crime area, provided a particularized and objective basis for suspecting criminal activity. The court concluded that the totality of the circumstances justified the stop and frisk.

READ THE COURT OPINION HERE:

<https://www.opn.ca6.uscourts.gov/opinions/pdf/25a0152p-06.pdf>

SEARCH AND SEIZURE:

Traffic Stop Based on Erratic Behavior

United States v. Moua, CA8, No. 24-2774, 8/1/25

Shue Moua was convicted by a jury of possession with intent to distribute methamphetamine. The conviction stemmed from a traffic stop conducted by Deputy Nils Hansen, who observed Moua's erratic behavior at a gas station and suspected she was impaired. During the stop, Hansen noted several signs of impairment and discovered methamphetamine in Moua's vehicle during an inventory search after her arrest.

Moua moved to suppress the evidence obtained from the search, arguing that the traffic stop was invalid and unreasonably prolonged. A magistrate judge recommended granting the motion, finding that Hansen lacked reasonable suspicion to initiate the stop. However, the United States District Court for the District of Minnesota overruled this recommendation, concluding that Hansen had reasonable suspicion based on Moua's impaired behavior and vehicle registration issues.

The United States Court of Appeals for the Eighth Circuit upheld the district court's decision. The appellate court found that Deputy Hansen had reasonable suspicion to stop Moua's vehicle based on her erratic driving and the absence of visible registration tags. The court also determined that the stop was not unreasonably prolonged, as Hansen's suspicions evolved during the encounter, justifying further investigation. The court affirmed the district court's denial of Moua's motion to suppress and upheld her conviction and sentence.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca8/24-2774/24-2774-2025-08-01.pdf?ts=1754062228>

SEARCH AND SEIZURE: Traffic Stop Justified; Reasonable Suspicion to Extend Stop Based on Open Container

United States v. Agena, CA8, No. 24-1323, 5/28/25

At around 2:00 a.m., Deputy Jason Schnieder and Deputy Taylor Castaneda of the Lancaster County Sheriff's Office stopped a vehicle for a traffic violation because the driver's side taillight was not illuminated. The officers also observed that the vehicle did not have license plates. After the vehicle came to a halt, the officers saw the driver lunge toward the passenger side of the vehicle.

Deputy Schnieder explained that this action was consistent with the driver attempting to conceal an item or produce a weapon. The officers did not see anything in the driver's hand during this movement.

The officers approached the stopped vehicle and observed an open alcohol container behind the passenger seat. Deputy Schnieder described it as "an open pouch of alcoholic beverage" that said "alcoholic beverage right on it" with the "bottom flared out like there's liquid inside." The deputy told the driver, Gary Payton, that the bag of "frozen alcoholic beverage product" "looked about half full." Payton explained that he was "drinking it at like 2:00 this afternoon" but "didn't finish it." Nebraska law forbids any person in the passenger area of a motor vehicle to possess an open alcohol container while the vehicle is located on a state highway.

Neither Payton nor Angelica Agena, the only passenger, had a valid driver's license. Payton told the officers that he had recently purchased the vehicle, but the bill of sale he produced did not identify the seller, buyer, or date of purchase. The officers learned that Payton and Agena had met recently and did not know each other well.

Deputy Schnieder testified that Agena was "very, very cautious and nervous" throughout the interaction and appeared to be concealing two bags with her legs. Although Payton said that alcohol from the open container had been consumed earlier that day, Agena claimed that it had been consumed a long time ago. The officers also saw in the back seat a butane torch lighter of a type that is sometimes used to light pipes for methamphetamine or crack cocaine.

The officers, suspecting criminal activity, handcuffed Payton and Agena and detained

them in the police cruiser. The officers searched Payton’s vehicle and found in Agena’s purse a gallon-sized bag containing several smaller baggies of a crystalline substance. After roadside testing indicated that the substance was methamphetamine, the officers arrested Agena for possession of a controlled substance. Subsequent laboratory analysis determined that the gallon-sized bag contained 170 grams of methamphetamine.

A grand jury charged Agena with possession with intent to distribute five grams or more of methamphetamine (Count I) and conspiracy to distribute five grams or more of methamphetamine (Count II). Agena moved to suppress the evidence seized during the traffic stop based on alleged violations of her Fourth Amendment right to be free of unreasonable searches and seizures. The district court denied the motion, and the case proceeded to trial. A jury found Agena guilty on both counts. She appeals.

The Court of Appeals for the Eighth Circuit stated that the open container violation was sufficient to establish reasonable suspicion of criminal activity.

“Nebraska law forbids possessing a receptacle that contains any amount of alcoholic beverage and is open or has a broken seal. The officers observed evidence of a crime unrelated to the traffic violation, and it was reasonable for them to extend the stop in order to investigate.

“The open container violation also gave the officers probable cause to search Agena’s purse. Having observed one open container with alcohol inside, a reasonable officer could believe that there was a fair probability that more open containers were located in the passenger area of the vehicle. The officers thus had probable cause to search the passenger compartment for evidence

of that offense. *United States v. Mena-Valdez*, No. 21-1120, 2021 WL 5985319, at *1 (8th Cir. Dec. 17, 2021) (per curiam); see also *United States v. Neumann*, 183 F.3d 753, 756 (8th Cir. 1999).

“The permissible scope of the search extended to ‘every part of the vehicle and its contents,’ including containers, that were capable of concealing evidence of the open container violation. *United States v. Ross*, 456 U.S. 798, 825 (1982). Agena’s purse was capable of holding an open container of alcohol. Even assuming that the open container in the passenger compartment belonged to Payton, an offender “might be able to hide contraband in a passenger’s belongings as readily as in other containers in the car.” *Wyoming v. Houghton* 526 U.S. 295, 305 (1999). The search of Agena’s purse was therefore supported by probable cause.”

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca8/24-1323/24-1323-2025-05-28.pdf?ts=1748446227>

SEARCH AND SEIZURE:

Unlawful Protective Sweep

United States v. Walker, CA7, No. 24-1522, 7/17/25

Richard Walker was arrested at his girlfriend Ramona Paulette’s residence, where he was staying overnight. Officers conducted a protective sweep of the residence and found a loaded firearm under the mattress in Walker Jr.’s bedroom. The United States District Court for the Southern District of Illinois denied Walker’s motion to suppress, finding the protective sweep and subsequent search justified. Walker entered a conditional guilty plea, reserving the right to appeal the denial of his suppression motion.

The United States Court of Appeals for the Seventh Circuit reviewed the case. Walker argued that the firearm and drugs were discovered through an unconstitutional search. The court found that Walker had standing to challenge the search and that the protective sweep was unlawful in scope when officers lifted the mattress in Walker Jr.'s bedroom.

“Searches of a residence require a warrant to satisfy the Fourth Amendment. However, there are exceptions to the warrant requirement. For example, incident to a lawful arrest and absent a search warrant, officers may search ‘spaces immediately adjoining the place of arrest from which an attack could be immediately launched.’ *Maryland v. Buie*, 494 U.S. 325, (1990). A warrantless search beyond that—i.e., a ‘protective sweep’—may be initiated if supported by articulable facts which, taken together with the rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the arrest scene.

“The protective sweep became unlawful in scope when officers lifted the mattress in Walker Jr.'s bedroom. Because a protective sweep is aimed at protecting the arresting officers, it is ‘not a full search of the premises, but may extend only to a cursory inspection of those spaces where a person may be found.’ *Buie*, 494 U.S. at 335. It must last no longer than is necessary to dispel the reasonable suspicion of danger and in any event no longer than it takes to complete the arrest and depart the premises.

“Walker contends that the protective sweep became unreasonable in scope when the officers lifted the mattress in Walker Jr.'s bedroom because, under the circumstances, no reasonable officer would have believed a dangerous assailant

was hiding underneath the mattress in a hollowed-out box spring waiting to launch an attack. We agree.

“Although it may have theoretically been possible for a person to have hollowed the inside of the mattress or box spring to create a hiding place from which to attack, theoretical possibilities cannot be enough. Finding otherwise would permit officers to lift a mattress in every protective sweep, regardless of the reasonableness of their suspicions or configuration of the premises. We continue to recognize that ‘the sweep is a device that can easily be perverted to achieve ends other than those acknowledged as legitimate in *Buie*.”

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca7/24-1522/24-1522-2025-07-17.pdf?ts=1752771708>

SEARCH AND SEIZURE: Use of Torrential Downpour, a Software Program Available only to Law Enforcement, To Obtain an IP Address

United States v. Ewing, CA11, No. 24-11308, 6/23/25

Law enforcement used a specialized software tool, Torrential Downpour, to download files containing child pornography from a specific IP address associated with the defendant. Torrential Downpour is designed to force a single-source download from a user on the BitTorrent peer-to-peer network, allowing officers to link specific files to a particular IP address. After obtaining these files, police secured a warrant and seized the defendant's computer and other devices, which contained additional child pornography. The defendant argued that he did not knowingly share files and that he had a reasonable expectation of privacy in the files downloaded by law enforcement.

The United States District Court for the Northern District of Florida held an evidentiary hearing on the defendant's motion to suppress the evidence, considering expert testimony about BitTorrent's functionality. The court found the government's expert more credible and determined that the defendant had made the files available to the public. The court concluded that the use of Torrential Downpour did not access any information not already publicly shared and denied the motion to suppress.

On appeal, the United States Court of Appeals for the Eleventh Circuit affirmed. The court held that the use of Torrential Downpour to download files from a peer-to-peer network did not constitute a search under the Fourth Amendment because the defendant had no reasonable expectation of privacy in files he made publicly available.

READ THE COURT OPINION HERE:

<https://media.ca11.uscourts.gov/opinions/pub/files/202411308.pdf>

SEARCH AND SEIZURE: Warrantless Dog Sniff in Common Hallway

United States v. Johnson, CA4, No. 23-4255, 8/5/25

Law enforcement officers suspected that Eric Johnon was involved in a drug trafficking operation based out of his apartment in a large, multi-unit building. To investigate further, officers, with the building management's permission, conducted a warrantless dog sniff in the common hallway immediately outside the defendant's apartment door. The trained dog alerted to the presence of drugs, and this information was used to obtain a search warrant. The subsequent search uncovered drugs, firearms, and other evidence.

The United States District Court for the District of Maryland found that the dog sniff did not violate a reasonable expectation of privacy because it only revealed the presence of contraband, and that the area outside the apartment door was not protected "curtilage" since it was a common hallway.

The United States Court of Appeals for the Fourth Circuit reviewed the district court's legal conclusions and held that a dog sniff at an apartment door in a common hallway does not violate a reasonable expectation of privacy because it only reveals the presence of contraband. The court also held that the common hallway outside the apartment door is not curtilage protected by the Fourth Amendment, as the defendant had no right to exclude others from that area.

READ THE COURT OPINION HERE:

<https://www.ca4.uscourts.gov/opinions/234255.p.pdf>

SEARCH AND SEIZURE: Warrantless Trash Pull

State of Iowa v. Amble, ISC, No. 23-2114, 6/13/25

Police in Des Moines, Iowa, received a tip about suspected narcotics trafficking at a residence. Acting under Iowa Code section 808.16, officers conducted warrantless searches of garbage bags placed curbside for collection. The searches revealed evidence of drug dealing, which was used to obtain a warrant to search the home, leading to further evidence and charges against two occupants, Charles Amble and John Mandracchia. The defendants moved to suppress the evidence, arguing that section 808.16 was unconstitutional.

The Iowa District Court for Polk County ruled in favor of the defendants, declaring Iowa Code section 808.16 facially unconstitutional under article I, section 8 of the Iowa Constitution, as interpreted in *State v. Wright*, 315 Iowa, 19, 961 N.W.2d 396 (Iowa 2021). The court suppressed the evidence obtained from the garbage searches and the subsequent home search. The State appealed. The Iowa Supreme Court reviewed the case and concluded that the district court erred in its ruling.

The court held that the specific provision in Iowa Code section 808.16(3), which deems garbage placed outside for collection in a publicly accessible area as abandoned property, is constitutional both facially and as applied in this case. This provision preempts conflicting local ordinances and negates any reasonable expectation of privacy in such garbage. Consequently, the warrantless trash pulls conducted by the police were lawful, and the evidence obtained was admissible.

The Iowa Supreme Court reversed the district court's suppression ruling and remanded the case for further proceedings consistent with its opinion.

READ THE COURT OPINION HERE:

<https://www.iowacourts.gov/courtcases/23246/embed/SupremeCourtOpinion>

SECOND AMENDMENT: California's Purchase of Ammunition Law Invalidated

Rhode v. Bonta, CA9, No. 24-542, 7/24/25

In 2016, California voters approved Proposition 63, which established a background check regime for ammunition sales. This regime, effective from July 1, 2019, requires residents to purchase ammunition through licensed vendors in face-to-face transactions and mandates background

checks before each purchase. The plaintiffs, including Olympic shooter Kim Rhode and several other individuals and organizations, challenged this regime on Second Amendment grounds, arguing it infringes on their right to keep and bear arms.

The United States District Court for the Southern District of California issued a preliminary injunction against the enforcement of the ammunition background check provisions.

The United States Court of Appeals for the Ninth Circuit affirmed the district court's decision. The Ninth Circuit determining that California's ammunition background check regime implicates the plain text of the Second Amendment and that the government failed to show the regime is consistent with the Nation's historical tradition of firearm regulation. The court held that the regime meaningfully constrains the right to keep operable arms and does not survive scrutiny. Consequently, the Ninth Circuit affirmed the district court's grant of a permanent injunction against the enforcement of California's ammunition background check regime.

READ THE COURT OPINION HERE:

<https://cdn.ca9.uscourts.gov/datastore/opinions/2025/07/24/24-542.pdf>

SECOND AMENDMENT: Illegal Aliens

United States v. Carbajal-Flores, CA7, No. 24-1534, 7/16/25

Heriberto Carbajal-Flores, an illegal alien, was arrested in Chicago after firing a pistol at passing cars during a period of civil unrest. He was indicted for possessing a firearm as an illegal alien under 18 U.S.C. § 922(g)(5)(A). Carbajal-Flores moved to dismiss the indictment, arguing that the statute violated his Second Amendment rights.

The district court ultimately found § 922(g)(5)(A) facially constitutional but held it unconstitutional as applied to Carbajal-Flores, reasoning that historical traditions only supported disarming untrustworthy or dangerous individuals, and Carbajal-Flores did not fit that description. The government appealed this decision.

The United States Court of Appeals for the Seventh Circuit held that the Second Amendment's protections do not extend to illegal aliens, as historical evidence shows a consistent tradition of disarming individuals who have not sworn allegiance to the sovereign. The court found that § 922(g)(5)(A) aligns with this tradition, as it only disarms illegal aliens who have not taken an oath of allegiance. The court concluded that the statute is constitutional both on its face and as applied to Carbajal-Flores, reversing the district court's decision.

READ THE COURT OPINION HERE:

<https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2025/D07-16/C:24-1534:J:Brennan:aut:T:fnOp:N:3398041:S:0>

SECOND AMENDMENT: Individual Convicted of Non-Violent Felony and Possession of Firearms

Zherka v. Bondi, CA2, No. 22-1108, 6/9/25

Selim Zherka, a convicted felon, challenged the constitutionality of a federal statute which prohibits felons from possessing firearms. Zherka argued that because his felony was nonviolent, Congress could not deprive him of his Second Amendment right to bear arms. Zherka sought a declaration that the statute was unconstitutional as applied to him and an injunction preventing the government from enforcing it against him.

The United States District Court for the Southern District of New York dismissed Zherka's claims. The court relied on the Supreme Court's assurance in *District of Columbia v. Heller* that longstanding prohibitions on the possession of firearms by felons are presumptively lawful.

The United States Court of Appeals for the Second Circuit affirmed the district court's decision. The court held that the Second Amendment does not prohibit Congress from disarming convicted felons, including those convicted of nonviolent felonies. The court found that there is a historical tradition of legislative disarmament of classes of people perceived as dangerous.

READ THE COURT OPINION HERE:

https://ww3.ca2.uscourts.gov/decisions/isysquery/9376cdc9-1b52-4ca3-872c-545d12c0c98e/1/doc/22-1108_opn.pdf

SECOND AMENDMENT: Restricting the Purchase of Firearms to No More Than One Within a 30 Day Period

Nguyen v. Bonta, CA9, No. 24-2036, 6/20/25

Michelle Nguyen and other individuals and organizations challenged California's "one-gun-a-month" law, which restricts the purchase of more than one firearm within a 30-day period. They argued that this law violates the Second Amendment. The law, initially targeting concealable handguns, was expanded over time to include all firearms. Plaintiffs sought to purchase multiple firearms within the restricted period.

The United States District Court for the Southern District of California granted summary judgment in favor of the plaintiffs, holding that the law facially violates the Second Amendment. The court found that the law imposes a meaningful constraint on

the right to acquire firearms, which is protected by the Second Amendment.

The United States Court of Appeals for the Ninth Circuit affirmed the district court's decision. The Ninth Circuit held that the Second Amendment protects the right to possess multiple firearms and the ability to acquire them without meaningful constraints. The court found that California's law lacks historical support, as there is no tradition of similar regulations. The court concluded that the law is facially unconstitutional and affirmed the district court's summary judgment in favor of the plaintiffs.

READ THE COURT OPINION HERE:

<https://cdn.ca9.uscourts.gov/datastore/opinions/2025/06/20/24-2036.pdf>

SECOND AMENDMENT: Restriction On Possession of Firearms Within 1,000 Feet of School Grounds

United States v. Allam, CA5, No. 24-40065, 6-19-25

Ahmed Abdalla Allam was charged with possession of a firearm within 1,000 feet from school grounds, in violation of a Federal statute. Invoking the Second Amendment, Allam challenged the constitutionality of the statute as applied to him. The district court rejected his challenges, and Allam thereafter pled guilty. Allam now appeals.

The United States District Court for the Eastern District of Texas upheld the statute as constitutional as applied to Allam and denied his motion to dismiss.

The United States Court of Appeals for the Fifth Circuit determined that the Second Amendment's plain text covered Allam's conduct. However, the court found that the Federal statute was consistent

with the Nation's historical tradition of firearm regulation, particularly when considering historical laws like the Statute of Northampton enacted in 1328 in England and going-armed laws, which restricted carrying firearms in a manner that posed a threat to public safety. The court also considered historical firearm regulations in educational settings and buffer zones around polling places, which supported the constitutionality of disarming a visibly threatening individual near a school.

READ THE COURT OPINION HERE:

<https://www.ca5.uscourts.gov/opinions/pub/24/24-40065-CR0.pdf>

SECOND AMENDMENT: Restriction on Sale of Firearms to Individuals Under Age of 21

McCoy v. Bureau of Alcohol, Tobacco, Firearms and Explosives, CA4, No. 23-2085, 6/18/25

Four individuals aged 18 to 20 sought to purchase handguns but were prohibited by a Federal statute which restricts the commercial sale of handguns to those under 21. They filed a lawsuit against the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), claiming that the statute violated their Second Amendment rights.

The United States District Court for the Eastern District of Virginia granted summary judgment in favor of the plaintiffs. The United States Court of Appeals for the Fourth Circuit reversed the district court's decision. The appellate court held that the Federal statute does not violate the Second Amendment. The court reasoned that historical traditions, including the common law infancy doctrine, supported restrictions on the sale of firearms to individuals under 21. The court found that burdens on minors' ability to purchase firearms and were motivated by concerns about the judgment and maturity of individuals under

21. The court concluded that the Federal statute is consistent with the nation's historical tradition of firearm regulation and is therefore constitutional. The case was remanded with instructions to dismiss it.

READ THE COURT OPINION HERE:

<https://cases.justia.com/federal/appellate-courts/ca4/23-2085/23-2085-2025-06-18.pdf?ts=1750271423>

SECOND AMENDMENT:

Waiting Period After Purchase

Ortega v. Grisham, CA10, No. 24-2121, 8/19/25

New Mexico enacted a law requiring a mandatory seven-day waiting period for nearly all consumer firearm purchases, regardless of the buyer's circumstances or urgency. The law applies even to individuals who have already passed background checks or possess security clearances, and it does not allow for waivers based on personal danger. Exemptions exist for certain categories, such as law enforcement, concealed carry permit holders, and immediate family transfers, but the law broadly prohibits the transfer of firearms before the waiting period ends, with violations constituting misdemeanors.

The United States Court of Appeals for the Tenth Circuit held that the waiting period burdens conduct protected by the Second Amendment, as the right to keep and bear arms necessarily includes the right to acquire them. The court found that such cooling-off periods are not supported by historical tradition or longstanding regulatory exceptions and that the law imposes an unconstitutional burden.

READ THE COURT OPINION HERE:

<https://www.ca10.uscourts.gov/sites/ca10/files/opinions/010111355976.pdf>