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Contents

CITY DEMONSTRATIONS: Curfew; Narrowly Tailored to Serve Governmental Interest

Jeffrey v. City of New York, CA2, No. 22-2745-cv, 8/16/24

In June 2020, Lamel Jeffery, Thaddeus Blake, and Chayse Pena were each arrested for violating a week-long nighttime curfew imposed by New York City in response to violence and destruction during demonstrations protesting George Floyd's death. They claimed the curfew violated their First, Fourth, and Fourteenth Amendment rights, particularly the right to travel.

The United States District Court for the Eastern District of New York dismissed the plaintiffs' § 1983 putative class action. The court determined that the curfew had to withstand strict scrutiny but concluded that it did so because it served a compelling governmental interest in curbing escalating crime and restoring public order and was narrowly tailored to that interest.

The United States Court of Appeals for the Second Circuit reviewed the case. The court affirmed the district court's dismissal, holding that the curfew satisfied strict scrutiny. The court found that the curfew served a compelling state interest in reducing crime and restoring public order, which was escalating unpredictably across the city. The curfew was narrowly tailored, being limited in duration to one week, applied only during nighttime hours, and included exceptions for essential workers and homeless individuals. The court concluded that the curfew was the least restrictive means available to address the compelling public interest, given

the circumstances of escalating violence and destruction. Thus, the plaintiffs' right-to-travel claim was dismissed as a matter of law.

READ THE COURT OPINION HERE:
https://ww3.ca2.uscourts.gov/decisions/isysquery/fb0eb2c9-77f5-424e-8ca8-8db7abfdbbde/1/doc/22-2745_opn.pdf

CIVIL LIABILITY:

Alleged Retaliatory and Excessive Force
Sanderlin v. Dwyer, CA9, No. 23-15487, 9/4/24

In the summer of 2020, Derrick Sanderlin attended a protest in San Jose, California, where he was struck in the groin by a 40mm foam baton round fired by Officer Michael Panighetti. Sanderlin alleged that Panighetti's use of force was retaliatory and excessive, violating his First and Fourth Amendment rights. Sanderlin claimed he was peacefully protesting and did not hear any warnings before being shot. Panighetti argued that Sanderlin was obstructing officers from targeting other individuals who posed a threat.

The US District Court for the Northern District of California denied Panighetti's motion for summary judgment, concluding that genuine disputes of material fact existed regarding whether Panighetti's actions were retaliatory and whether the force used was excessive. The court found that a jury could determine that Sanderlin was engaged in protected First Amendment activity and that Panighetti's actions were motivated by retaliatory animus and unreasonable force.

The United States Court of Appeals for the Ninth Circuit affirmed the district court's denial of qualified immunity to Panighetti. The Ninth Circuit held that, viewing the evidence in the light most favorable to Sanderlin, genuine disputes of material fact existed as to whether Panighetti's use of force was retaliatory and excessive. The court concluded that it was clearly established that police officers may not use their authority to retaliate against individuals for protected speech and that the use of a 40mm foam baton round against a non-threatening individual constituted excessive force.

READ THE COURT OPINION HERE:
https://cdn.ca9.uscourts.gov/datastore/opinions/2024/09/04/23-15487.pdf

CIVIL LIABILITY:

Dog Bite of Individual Who Has Surrendered
Rosenbaum v. City of San Jose
CA9, No. 22-16862, 7/11/24

Zachary Rosenbaum was arrested by San Jose police officers, during which a police dog allegedly bit him for over twenty seconds after he had surrendered and lay prone on his stomach with his arms outstretched. Rosenbaum sued the City of San Jose and the officers involved under 42 U.S.C. § 1983, claiming excessive force in violation of the Fourth Amendment. He alleged that the prolonged dog bite caused severe lacerations and permanent nerve damage to his arm.

The United States District Court for the Northern District of California denied the defendants' motion for summary judgment based on qualified immunity. The defendants appealed, arguing that the bodycam video contradicted Rosenbaum's allegations. However, the district court found that the video did not contradict Rosenbaum's claims and that whether the officers acted reasonably was a triable question for the jury.

The United States Court of Appeals for the Ninth Circuit reviewed the case and affirmed the district

court's denial of qualified immunity. The Ninth Circuit held that the bodycam video generally supported Rosenbaum's allegations and that a reasonable jury could find that the officers used excessive force. The court noted that it was clearly established in the Ninth Circuit that officers violate the Fourth Amendment when they allow a police dog to continue biting a suspect who has fully surrendered and is under officer control. Therefore, the court concluded that the officers were not entitled to qualified immunity and affirmed the district court's decision.

READ THE COURT OPINION HERE:
https://cdn.ca9.uscourts.gov/datastore/opinions/2024/07/11/22-16863.pdf

CIVIL LIABILITY: Dog Bites Police Officer While Deployed Without a Leash

Irish v. McNamara, CA8, No. 23-3034, 7/18/24

Officer Daniel Irish, while pursuing a suspect, was bitten by a police K9 named Thor, handled by Deputy Keith McNamara. Irish sued McNamara under 42 U.S.C. § 1983, claiming a violation of his Fourth Amendment rights due to excessive force and unreasonable seizure. The incident occurred during a high-speed chase that ended in a cemetery, where McNamara deployed Thor without a leash. Irish, unaware of the K9's presence, was bitten by Thor, who was commanded to "get him" by McNamara.

The United States District Court for the District of Minnesota denied McNamara's motion to dismiss. The court reasoned that it was clearly established that a seizure occurred under the Fourth Amendment, despite acknowledging the incident as a "highly unfortunate accident."

The United States Court of Appeals for the Eighth Circuit reviewed the case. The court focused on whether it was clearly established that the K9's bite constituted a seizure under the Fourth Amendment. The court noted that for a seizure to occur, an officer must intentionally apply physical force or show authority to restrain an individual's freedom of movement. The court found that the law was not clearly established regarding whether an officer's subjective intent was necessary for a seizure. The court concluded that McNamara did not subjectively intend to seize Irish, as evidenced by his commands to Thor to disengage and his immediate actions to restrain the K9.

The Eighth Circuit held that it was not clearly established that an officer could seize a fellow officer with a K9 without subjectively intending to do so. Therefore, McNamara was entitled to qualified immunity.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/07/233034P.pdf

CIVIL LIABILITY:

Excessive Force; Shooting of Dogs

Ramirez v. Killian, CA5, No. 22-11060, 8/15/24

On the afternoon of June 20, 2016, Deputy James Killian responded to a domestic disturbance call reporting a "big fight going on" between "Rubicela Ramirez and her dude" at Ramirez's and Francisco Gonzales's home in Wellington, Texas. After arriving at the home, Killian told dispatch that he heard what sounded like someone "getting beat" and stated that he was about to enter the home. Two minutes after arriving, he turned on his body camera and entered the home through the living room, shouting "Polícia!" with his gun and pepper spray drawn.

The next thirty-eight seconds of video show what happened from there. From the living room, Killian entered the kitchen, where he encountered Ramirez entering from another door. Killian ordered her to "come here, get over here, get over here and face that wall." Ramirez approached Killian. Killian then ordered: "get over there and face that g— d—n wall, b—h," simultaneously pepper spraying Ramirez's face. While this was happening, Gonzales entered the kitchen from the same door as had Ramirez. At the same time, a pit bull entered the kitchen from another door and walked up to Gonzales, wagging his tail. Killian ordered Gonzales to "get over here" and said "I'll shoot your dog." The dog—Bruno—began to walk towards Killian, and Killian shot him three times.

Killian then ordered Ramirez and Gonzales to get onto the ground and continued to pepper spray them. Neither Ramirez nor Gonzales immediately complied, but Gonzales put his hands onto his head. Then, a German Shepherd appeared in the kitchen and walked toward Killian, who immediately shot it four times as he backed into the living room. Killian briefly exited the house from the door that he had entered and radioed for help. He then returned to the living room and continued to order Ramirez and Gonzales to get onto the ground. Ramirez and Gonzales went to their knees. Killian continued to pepper spray them. For the next few minutes, the three shouted profanities at each other as Killian unsuccessfully tried to get Ramirez and Gonzales to lie down on the ground. About eleven minutes after Killian first entered the home, Ramirez and Gonzales agreed to be handcuffed and Killian seated them on a couch in the living room.

Soon thereafter, Sheriff Kent Riley arrived at the home. Upon his entry, Ramirez stood up from the couch and called out Riley's first name, asking him to help her. Killian immediately grabbed her by the hair and wrestled her to the ground. As he did so, his body camera fell off briefly and went black. Ramirez and Gonzales maintain that immediately after Killian took Ramirez to the ground, he slammed her head against the floor, though the video was still black at this point and does not show it.

Ramirez and Gonzales filed a lawsuit under 42 U.S.C. § 1983, claiming violations of their Fourth Amendment rights due to warrantless entry, excessive force, and unreasonable seizure of their dog.

The United States District Court for the Northern District of Texas granted summary judgment in favor of Killian on the warrantless entry and excessive force claims, citing qualified immunity. However, the court allowed the unreasonable seizure claim regarding the shooting of one of the dogs to proceed to trial. The jury found Killian liable and awarded damages to Ramirez and Gonzales. The district court overturned the jury's verdict.

The United States Court of Appeals for the Fifth Circuit reviewed the case. The court affirmed the district court's summary judgment on the warrantless entry claim, agreeing that exigent circumstances justified Killian's entry. However, the court reversed the summary judgment on the excessive force claims, finding that a reasonable jury could conclude that Killian's use of pepper spray and physical force was excessive and unreasonable. The court also reversed the district court's judgment as a matter of law on the unreasonable seizure claim, reinstating the jury's verdict. The case was remanded for further proceedings on the excessive force claims.

"The jury found Killian liable for violating Ramirez's and Gonzales's constitutional rights and

awarded them damages. Our own review of the body camera video gives us no reason to disagree. Here, Bruno had displayed no signs of aggression prior to approaching Killian. Mere seconds before Killian opened fire, Bruno had walked up to Gonzales wagging his tail. There is a robust consensus that an officer may not, consistent with the Fourth Amendment, kill a pet dog unless he reasonably believes that the dog poses a threat and that he is in imminent danger of being attacked.

"We are far from the first to recognize and apply this rule—in fact, we are almost the last. Each of our sister circuits save for the Eleventh Circuit has addressed, in published opinions, the applicability of the Fourth Amendment to state officials' killing pet dogs. Eight of those opinions were published before June 20, 2016. The legal rule that they announce is clear: killing a pet dog constitutes a seizure of property under the Fourth Amendment, which must then be evaluated for reasonableness to determine whether the killing ran afoul of the Constitution.

"Having been given the applicable law, the jury had ample evidence before it to find that qualified immunity did not apply. The jury delivered a verdict in favor of Ramirez and Gonzales. That should have ended the matter."

READ THE COURT OPINION HERE:
https://www.ca5.uscourts.gov/opinions/pub/22/22-10401-CV0.pdf

CIVIL LIABILITY:

Factual Dispute Must Be Resolved By Jury

Ambler v. Nissen, CA5, No. 23-5096, 9/10/24

In the early morning, Javier Ambler II was driving without dimming his high beams, prompting a Texas sheriff's deputy to signal him to stop. Ambler refused, leading to a high-speed chase involving multiple officers. The pursuit ended when Ambler crashed into trees in Austin, Texas. As officers attempted to arrest him, Ambler, who had congestive heart failure, repeatedly stated he could not breathe. Despite his pleas, Austin City Policeman Michael Nissen and other officers continued to restrain him. Ambler was eventually handcuffed but appeared limp and was later pronounced dead at a hospital.

Ambler's family sued alleging excessive force and bystander liability. The United States District Court for the Western District of Texas denied Nissen's motion for summary judgment on qualified immunity grounds, citing genuine disputes of material fact. The court found that the facts, viewed in the light most favorable to the plaintiffs, could support a finding that Nissen used excessive force and failed to intervene to prevent other officers from using excessive force.

The United States Court of Appeals for the Fifth Circuit reviewed the case. The court held that it lacked jurisdiction to review the district court's denial of summary judgment because the appeal did not turn on a pure issue of law but rather on disputed facts. The court emphasized that factual disputes, such as whether Ambler was resisting arrest or posed a threat, were material to the plaintiffs' claims and should be resolved by a jury. Consequently, the Fifth Circuit dismissed the appeal and remanded the case for further proceedings.

READ THE COURT OPINION HERE:
https://www.ca5.uscourts.gov/opinions/pub/23/23-50696-CV0.pdf

CIVIL LIABILITY: Failure to Comply with Orders; Serious Crime with Threats of Violence; Pepper Spray
Drew v. City of Des Moines
CA8, No. 23-2656, 8/2/24

Christopher Drew was arrested after officers responded to a harassment complaint from his neighbor, who reported that Drew had threatened her and her child. When officers arrived at Drew's apartment, they found him in a confrontation with another woman. During the arrest, Officer Hemsted pepper-sprayed Drew without warning after Drew refused to comply with orders and warned the officer not to touch him. Drew later pleaded guilty to second-degree harassment and subsequently sued the officers and the City of Des Moines under 42 U.S.C. § 1983 for excessive force.

The United States District Court for the Southern District of Iowa granted summary judgment in favor of the defendants, finding that Officer Hemsted's use of force was objectively reasonable. The court concluded that the officers did not violate Drew's Fourth Amendment rights and dismissed all claims.

The United States Court of Appeals for the Eighth Circuit reviewed the case. The court held that Officer Hemsted was entitled to qualified immunity because it was not clearly established that using pepper spray in this context violated Drew's constitutional rights. The court noted that Drew was suspected of a serious crime involving threats of violence and was noncompliant during the arrest. The court distinguished this case from others involving less severe crimes and minimal safety threats. Consequently, the court also found that Officer Ulin and the City of Des Moines were not liable, as they were not on fair notice that their actions were unconstitutional. The Eighth Circuit affirmed the district court's judgment and granted the motion to supplement the record with bodycam footage.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/08/232656P.pdf

CIVIL LIABILITY: False Arrest; Probable Cause; Qualified Immunity
Schimandle v. DeKalb County Sheriff's Office
CA7, No. 23-2151, 8/28/24

A high-school administrator, Justin Schimandle, forcibly restrained a student, C.G., at school. Following an investigation, Detective Josh Duehning of the Dekalb County Sheriff's Office submitted affidavits to support an arrest warrant for Schimandle on battery charges. An Illinois state magistrate judge issued the warrant, and Schimandle turned himself in. The criminal case proceeded to a bench trial, where Schimandle was found not guilty after the prosecution rested.

Schimandle then sued the Dekalb County Sheriff's Office and Duehning, alleging false arrest. The defendants moved for judgment on the pleadings, and the United States District Court for the Northern District of Illinois granted the motion, dismissing Schimandle's claims. The court found that there was probable cause to arrest Schimandle and that Duehning was entitled to qualified immunity.

The United States Court of Appeals for the Seventh Circuit reviewed the case and affirmed the district court's decision. The appellate court held that arguable probable cause supported Schimandle's arrest, meaning a reasonable officer could have believed probable cause existed based on the circumstances. The court also found that Duehning was entitled to qualified

immunity, protecting him from liability for the false arrest claim. Additionally, the court noted that the magistrate judge's issuance of the arrest warrant further supported the reasonableness of Duehning's actions. Consequently, the court affirmed the dismissal of Schimandle's complaint.

READ THE COURT OPINION HERE:
https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2024/D08-28/C:23-2151:J:Brennan:aut:T:fnOp:N:3255418:S:0

CIVIL LIABILITY:

Lack of Probable Cause; De Facto Arrest

Soukaneh v. Andrzejewski
CA2, No. 21-2047, 8/12/24

Basel Soukaneh alleged that during a routine traffic stop, Officer Nicholas Andrzejewski of the Waterbury, Connecticut police department unlawfully handcuffed and detained him in a police vehicle for over half an hour and conducted a warrantless search of his vehicle. Soukaneh had presented a valid firearms permit and disclosed the presence of a firearm in his vehicle. Andrzejewski argued that the presence of the firearm gave him probable cause to detain Soukaneh and search his vehicle.

The U.S. District Court for the District of Connecticut partially granted and partially denied Andrzejewski's motion for summary judgment. The court found that the initial stop was justified based on reasonable suspicion of a traffic violation. However, it denied summary judgment regarding the handcuffing and prolonged detention of Soukaneh, as well as the searches of the vehicle and trunk, concluding that Andrzejewski did not have the requisite probable cause and was not entitled to qualified immunity.

The United States Court of Appeals for the Second Circuit reviewed the case and affirmed the district court's decision. The appellate court held that Andrzejewski violated Soukaneh's Fourth Amendment rights by detaining him in a manner and for a length of time that constituted a de facto arrest without probable cause. The court also found that the warrantless searches of Soukaneh's vehicle and trunk were not justified under the automobile exception or as a Terry frisk, as there was no reasonable suspicion or probable cause to believe that the vehicle contained contraband or evidence of a crime. Consequently, Andrzejewski was not entitled to qualified immunity for his actions.

READ THE COURT OPINION HERE:
https://ww3.ca2.uscourts.gov/decisions/isysquery/a6554afd-a7f6-4d54-93da-1ef85d120a61/1/doc/21-2047_opn.pdf

CIVIL LIABILITY: Material Facts in Dispute Precluding Qualified Immunity

Setchfield v. Ronald, CA8, No. 23-2236, 7/31/24

James Setchfield, a 68-year-old man, filed a lawsuit against St. Charles County Police Department officers Nicholas Seiverling and Scott Ronald, alleging they used excessive force during an incident in a parking lot. The incident began when Setchfield arrived to pick up his son, who had been arrested for driving under the influence. A confrontation ensued between Setchfield and Corporal Ronald, during which Setchfield was allegedly beaten by the officers while still seated in his car. Setchfield claimed he did not threaten or resist the officers, but was nonetheless pulled from his car, beaten, and arrested.

The United States District Court for the Eastern District of Missouri dismissed claims against St.

Charles County and one officer, John Williams, but denied summary judgment for Corporal Ronald and Officer Seiverling on Setchfield's excessive force and unlawful arrest claims. The court found that material factual disputes remained, precluding summary judgment based on qualified immunity.

The United States Court of Appeals for the Eighth Circuit reviewed the case. The court affirmed the district court's denial of summary judgment, holding that the officers were not entitled to qualified immunity. The court found that, viewing the facts in the light most favorable to Setchfield, the officers used unreasonable force against a non-threatening, non-resisting individual. Additionally, the court determined that the officers lacked probable cause or arguable probable cause to arrest Setchfield for interfering with police duties or resisting arrest. The court concluded that the officers' actions violated clearly established constitutional rights, thus denying them qualified immunity.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/07/232236P.pdf

CIVIL LIABILITY: Malicious Prosecution Without Probable Cause; Dismissal Based on Another Charge

Chiaverini v. City or Napoleon
USSC, No 22-915, 6/21/24

This case involves a dispute between Jascha Chiaverini, a jewelry store owner, and police officers from Napoleon, Ohio. The officers charged Chiaverini with three crimes: receiving stolen property, dealing in precious metals without a license, both misdemeanors, and money laundering, a felony. After obtaining a warrant, the police arrested Chiaverini and detained him for three days. However, county prosecutors later dropped the case. Chiaverini, believing that his arrest and detention were unjustified, sued the officers, alleging a Fourth Amendment malicious-prosecution claim under 42 U.S.C. §1983. To win this claim, he had to show that the officers brought criminal charges against him without probable cause, leading to an unreasonable seizure of his person.

The District Court granted summary judgment to the officers, and the Court of Appeals for the Sixth Circuit affirmed. The Court of Appeals held that Chiaverini's prosecution was supported by probable cause. In its decision, the court did not address whether the officers had probable cause to bring the money-laundering charge. The court believed that there was clearly probable cause to charge Chiaverini with the two misdemeanors. As long as one charge was supported by probable cause, it thought, a malicious-prosecution claim based on any other charge must fail.

The Supreme Court of the United States held that the presence of probable cause for one charge in a criminal proceeding does not categorically defeat a Fourth Amendment malicious-prosecution claim relating to another, baseless charge. The parties, and the United States as amicus curiae, all agreed with this conclusion, which follows from both the Fourth Amendment and traditional common-law practice. The Supreme Court vacated the judgment of the Court of Appeals and remanded the case for further proceedings consistent with its opinion.

READ THE COURT OPINION HERE:
https://www.supremecourt.gov/opinions/23pdf/23-50_n648.pdf

CIVIL LIABILITY:

Opportunity for Evidence Discovery

Boyle v. Azzari, CA4, No. 23-1107, 7/9/24

This case revolves around the death of sixteen-year-old Peyton Alexander Ham. His mother, Kristee Ann Boyle, filed a lawsuit against State Trooper Azzari for excessive force under 42 U.S.C. § 1983. The incident occurred when Azzari responded to a dispatch reporting a suspicious man with a gun. Upon arrival, Azzari encountered Ham, who he believed was holding a gun. Azzari fired at Ham, who was actually holding a replica of a Sig Sauer. Azzari then noticed Ham had a knife and fired additional shots, resulting in Ham's death.

The district court denied Boyle's request for additional time for discovery and granted Azzari's pre-discovery motion for summary judgment. The court determined that the evidence Boyle sought could not create a triable issue of fact regarding her claims and held that Azzari was entitled to summary judgment because his actions were reasonable even under Boyle's proffered account of the relevant events.

The U.S. Court of Appeals for the Fourth Circuit disagreed with the lower court's decision. The court concluded that discoverable evidence could create a material dispute of fact and thus the district court abused its discretion in denying Boyle an opportunity to conduct discovery. The court did not assess the lower court's determination on the merits, but reversed its denial of Boyle's motion for discovery, vacated its grant of summary judgment to Azzari as premature, and remanded the case.

READ THE COURT OPINION HERE:
https://www.ca4.uscourts.gov/opinions/231107.p.pdf

CIVIL LIABILITY: Posting Mugshot on Website Caused Actionable Harm

Houston v. Maricopa County
CA9, No. 23-15524, 9/5/24

Brian Houston, representing a putative class, filed a lawsuit against Maricopa County and Sheriff Paul Penzone, alleging that the County's practice of posting arrestees' photographs and identifying information on its Mugshot Lookup website violated his substantive and procedural due process rights and his right to a speedy public trial. Houston's mugshot and personal details were posted online for three days following his arrest, even though he was never prosecuted.

He claimed this caused him public humiliation, reputational harm, and emotional distress but the United States District Court for the District of Arizona dismissed Houston's claims. The court found that the Mugshot Lookup post was not a condition of pretrial detention and that Houston failed to show a cognizable liberty or property interest for his procedural due process claim.

The United States Court of Appeals for the Ninth Circuit reviewed the case. The court reversed the district court's dismissal of Houston's substantive due process claim, holding that Houston sufficiently alleged that the Mugshot Lookup post caused him actionable harm and that the County's transparency justification did not rationally relate to the punitive nature of the post.

READ THE COURT OPINION HERE:
https://cdn.ca9.uscourts.gov/datastore/opinions/2024/09/05/23-15524.pdf

CIVIL LIABILITY: Use of Deadly Force Objectively Reasonable

Williams v. City of Sparks
CA9, No. 23-15465, 8/9/24

This case involves a non-fatal shooting of Joseph Williams by officers of the Sparks Police Department following a 42-minute car chase. Williams had stolen alcohol and vandalized a vehicle, leading to a police pursuit. During the chase, Williams ran red lights, drove through a fence, and briefly drove on the wrong side of the freeway. The chase ended when officers pinned Williams's truck, but he continued to attempt to flee, leading officers to fire multiple rounds, injuring him.

The United States District Court for the District of Nevada denied summary judgment on Williams's claims of excessive force. The court found genuine factual disputes about the threat Williams posed and whether he was attempting to flee when officers fired.

The United States Court of Appeals for the Ninth Circuit reversed the district court's denial of summary judgment. The appellate court found that video evidence clearly showed Williams attempting to accelerate, contradicting his claim. The court held that the officers' use of deadly force was objectively reasonable, given the threat Williams posed to public safety. The court reversed and remanded the case for further proceedings consistent with its opinion.

READ THE COURT OPINION HERE:
https://cdn.ca9.uscourts.gov/datastore/opinions/2024/08/09/23-15465.pdf

CIVIL LIABILITY:

Use of Deadly Force; Qualified Immunity

Franklin v. Popovich, CA11, No. 22-13326, 8/6/24

Christopher Redding was wanted for parole violations related to robbery charges and was classified as a "Violent Felony Offender of Special Concern." On February 28, 2017, police officers, including Deputy Jason Popovich, attempted to arrest Redding at an apartment complex. Redding did not comply with the officers' commands and instead started shooting, injuring one officer. He fled, dropping his gun during the chase. Eventually, Redding was shot multiple times and fell to the ground. As officers, including Popovich, approached him, Redding made a sudden movement, prompting Popovich to shoot him twice in the head, resulting in Redding's death.

The U.S. District Court for the Middle District of Florida granted summary judgment in favor of Popovich on qualified immunity grounds. The court found that while there was a genuine issue of fact regarding whether Popovich's use of force was objectively reasonable under the Fourth Amendment the court concluded that a reasonable officer could believe Redding's sudden movement was an attempt to fight back.

The U.S. Court of Appeals for the Eleventh Circuit affirmed. The court concluded that there was no genuine dispute of fact that Popovich did not know Redding was unarmed. Given the severity of Redding's crimes, his recent shootout with police, and his sudden movement, a reasonable officer could have believed he posed a threat. Therefore, Popovich's use of deadly force did not violate the Fourth Amendment and he was entitled to qualified immunity.

READ THE COURT OPINION HERE:
https://media.ca11.uscourts.gov/opinions/pub/files/202213326.pdf

CIVIL LIABILITY: Use of Force; Entire Sequence of Events Lasted Only a Few Seconds

Caraway v. City of Pineville
CA4, No. 22-2281, 8/6/24

On February 1, 2020, four Pineville Police Department officers responded to a 911 call about a Black man allegedly waving a gun. They found Timothy Caraway walking alone with a cellphone in his hand. The officers, with weapons drawn, commanded Caraway to raise his hands and drop what they thought was a gun. As Caraway reached into his jacket to discard the gun, Officers Adam Roberts and Jamon Griffin fired twelve shots, hitting Caraway four times. Caraway sued the officers and the City of Pineville alleging excessive force.

The United States District Court for the Western District of North Carolina granted summary judgment to the officers, finding they were entitled to qualified immunity on the Fourth Amendment excessive force claim. The court concluded that the officers' use of deadly force was reasonable because Caraway's gun was pointed at them in the moments before the shooting.

The United States Court of Appeals for the Fourth Circuit held that the officers' use of deadly force was reasonable under the Fourth Amendment because Caraway's gun was pointed at the officers, posing an immediate threat. The court declined to segment the shooting into different phases, noting the entire sequence lasted only a few seconds.

READ THE COURT OPINION HERE:
https://www.ca4.uscourts.gov/opinions/222281.p.pdf

CIVIL LIABILITY: Use of Force; Return Fire During Active Shooting

Cuevas v. City of Tulare, CA9, No. 23-15953, 7/10/24

Rosa Cuevas was a passenger in a car driven by Quinntin Castro, who led police on a high-speed chase. After getting stuck in mud, Castro continued trying to flee. Police officers surrounded the car, broke the window, and sent a police dog inside. Castro shot and killed the dog and injured an officer. The officers returned fire, aiming at Castro but accidentally hitting Cuevas multiple times. Castro was ultimately killed, and Cuevas survived with severe injuries. Cuevas sued the City of Tulare and the involved officers under 42 U.S.C. § 1983 and California law, alleging excessive force.

The United States District Court for the Eastern District of California granted summary judgment in favor of the defendants. The court found that Cuevas was not seized for Fourth Amendment purposes and, alternatively, that even if she were seized, the officers were entitled to qualified immunity because it was not clearly established that their use of force was excessive.

The United States Court of Appeals for the Ninth Circuit reviewed the case and affirmed the district court's decision. The appellate court held that Cuevas was indeed seized under clearly established Fourth Amendment law. However, it was not clearly established that the force used by the officers was excessive. The court found that none of the cases cited by Cuevas clearly established that officers violated her rights when they shot her while defensively returning fire during an active shooting. The court also noted that in excessive-force cases where police officers face a threat, the obviousness principle will rarely be available as an end-run to the requirement

that law must be clearly established. Therefore, the officers were entitled to qualified immunity.

READ THE COURT OPINION HERE:
https://cdn.ca9.uscourts.gov/datastore/opinions/2024/07/10/23-15953.pdf

EIGHT AMENDMENT:

Public Camping on Public Property
City of Grants Pass v. Johnson
USSC, No. 23-176, 6/28/24,

Grants Pass, Oregon, is home to roughly 38,000 people, about 600 of whom are estimated to experience homelessness on a given day. Like many local governments across the Nation, Grants Pass has public camping laws that restrict encampments on public property. The Grants Pass Municipal Code prohibits activities such as camping on public property or parking overnight in the city's parks. Violations can result in fines and, in the case of multiple violations, imprisonment. A group of homeless individuals filed a class action lawsuit against the city, arguing that these ordinances violated the Eighth Amendment's prohibition against cruel and unusual punishment. The district court agreed with the plaintiffs.

The Ninth Circuit affirmed the district court's decision, leading to the city's appeal to the Supreme Court. The Supreme Court reversed the Ninth Circuit's decision, holding that the enforcement of laws regulating camping on public property does not constitute "cruel and unusual punishment" prohibited by the Eighth Amendment. The Court reasoned that the Eighth Amendment focuses on the punishment a government may impose after a criminal conviction, not on whether a government may criminalize particular behavior in the first place.

The Court also noted that the punishments imposed by the city of Grants Pass, such as fines and temporary bans from public parks, did not qualify as cruel and unusual under the Eighth Amendment. The case was remanded for further proceedings consistent with the Supreme Court's opinion.

READ THE COURT OPINION HERE:
https://www.supremecourt.gov/opinions/23pdf/23-175_19m2.pdf

EVIDENCE: Chain of Custody

United States v. Edwards
CA8, No. 23-2841, 8/6/24

Christopher Edwards was convicted of conspiracy to distribute controlled substances and possession with intent to distribute a controlled substance. The United States District Court for the District of Minnesota denied Edwards's motion to suppress the evidence due to a chain of custody issue.

On appeal the United States Court of Appeals for the Eighth Circuit reviewed the case and found no abuse of discretion in admitting the cocaine, noting that any chain of custody defects went to the weight of the evidence, not its admissibility.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/08/232841P.pdf

EVIDENCE: Expert Witness Testimony; Officer Provides Information on Drugs

United States v. Horsley
CA4, No. 22-4671, 6/24/24

Quentin Horsley was convicted of conspiring to distribute, and possession with intent to distribute, cocaine, methamphetamine, heroin, and cocaine base, as well as three counts of distributing cocaine. On appeal, he challenges the testimony of Detective Knabb about drug operations and terminology, which mapped onto other evidence.

"Detective Matthew Knabb was qualified as an expert in drug trafficking and his testimony was properly admitted. He testified as to the quantities and prices of cocaine, heroin, and methamphetamine typically sold at the user and distributor levels. He explained the mechanics of drug trafficking and sale, the process of cutting drugs with other substances in order to multiply their gross weights for distribution, and the use of stash houses to avoid detection by other dealers and law enforcement. He also testified that drug dealing is a cash business and that drug dealers typically communicate via cellphones, often in coded language. He further testified that drugs are sometimes sold on consignment, which means the dealer provides drugs to the buyer with the understanding that they will be paid at a later date. And Detective Knabb testified as to the definitions of common slang in the drug trade. That slang included 'zip' (ounce), 'half' (half ounce), 'quarter' (quarter ounce), 'brick' (kilogram), 'powder, soft, blow' (cocaine), 'food or dog food' (heroin), 'cream or ice cream or fast' (methamphetamine), 'work' (drugs), 'ticket' (price of drugs), 'band' (stack of a thousand dollars), 'fire' (high purity drugs), and 'plug' (source of supply)."

READ THE COURT OPINION HERE:
https://www.ca4.uscourts.gov/opinions/224671.p.pdf

EVIDENCE: Opinion Evidence; Mental State of a Group is not an Opinion about a Particular Individual

Diaz v. United States, USSC, No. 23-14, 6/20/24

Delilah Diaz was stopped at a U.S.-Mexico border port of entry, where border patrol officers discovered over 54 pounds of methamphetamine hidden in the car she was driving. Diaz was charged with importing methamphetamine, a charge that required the government to prove that Diaz knowingly transported the drugs. Diaz claimed she was unaware of the drugs in the car. To counter this claim, the government planned to call an expert witness, Homeland Security Investigations Special Agent Andrew Flood, to testify that drug traffickers generally do not entrust large quantities of drugs to people who are unaware they are transporting them. Diaz objected to this testimony under Federal Rule of Evidence 704(b), which prohibits an expert witness from stating an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. The court ruled that Agent Flood could testify that most couriers know they are transporting drugs. Diaz was found guilty and appealed, challenging Agent Flood's testimony under Rule 704(b).

The Court of Appeals held that because Agent Flood did not explicitly opine that Diaz knowingly transported methamphetamine, his testimony did not violate Rule 704(b). Diaz appealed this decision to the Supreme Court of the United States.

The Supreme Court affirmed the decision of the Court of Appeals. The Court held that expert testimony that "most people" in a group have a particular mental state is not an opinion about "the defendant" and thus does not violate Rule 704(b). The Court reasoned that Agent Flood did not express an opinion about whether Diaz herself knowingly transported methamphetamine. Instead, he testified about the knowledge of most drug couriers, which does not necessarily describe Diaz's mental state. The Court concluded that because Agent Flood did not express an opinion about whether Diaz herself knowingly transported methamphetamine, his testimony did not violate Rule 704(b).

READ THE COURT OPINION HERE:
https://www.supremecourt.gov/opinions/23pdf/23-14_d1o2.pdf

EVIDENCE: Testimony Regarding Scientific Analysis; Confrontation Clause
Smith v. Arizona, USSC, No. 22-899, 6/21/24

Jason Smith was charged with various drug offenses after law enforcement officers found him with a large quantity of what appeared to be drugs and drug-related items. The seized items were sent to a crime lab for scientific analysis. Analyst Elizabeth Rast ran forensic tests on the items and concluded that they contained usable quantities of methamphetamine, marijuana, and cannabis. Rast prepared a set of typed notes and a signed report about the testing. However, Rast stopped working at the lab prior to trial, so the State substituted another analyst, Greggory Longoni, to provide an independent opinion on the drug testing performed by Rast. At trial, Longoni conveyed to the jury what Rast's records revealed about her testing, before offering his "independent opinion" of each item's identity. Smith was convicted. On appeal, he argued that the State's use of a substitute expert to convey the substance of Rast's materials violated his Confrontation Clause rights. The Arizona Court of Appeals rejected Smith's challenge.

The Supreme Court of the United States held that when an expert conveys an absent analyst's statements in support of the expert's opinion, and the statements provide that support only if true, then the statements come into evidence for their truth. The Court vacated the judgment of the Arizona Court of Appeals and remanded the case for further proceedings. The Court clarified that the Confrontation Clause still allows forensic experts to play a useful role in criminal trials. However, a state may not introduce the testimonial out-of-court statements of a forensic analyst at trial, unless she is unavailable and the defendant has had a prior chance to cross-examine her. The Court concluded that the State used Longoni to relay what Rast wrote down about how she identified the seized substances, and thus Longoni effectively became Rast's mouthpiece. If the out-of-court statements were also testimonial, their admission violated the Confrontation Clause.

READ THE COURT OPINION HERE:
https://www.supremecourt.gov/opinions/23pdf/22-899_97be.pdf

EYEWITNESS IDENTIFICATION:

The Showup

United States v. Gallegos
CA10, N0. 23-2010, 8/5/24

A mail carrier for the U.S. Postal Service, Luis Quiroga, was assaulted by a man wielding a knife while delivering mail in Albuquerque, New Mexico. Quiroga described the assailant to police as a Hispanic man in a yellow sweater and blue jeans. Shortly after, police apprehended Elias Gallegos, who matched the description, following a chase during which he discarded his sweater and a knife. Quiroga identified Gallegos in a show-up procedure, despite the suggestive nature of the identification.

The United States District Court for the District of New Mexico admitted Quiroga's identification testimony and evidence of Gallegos's flight. Gallegos was convicted of assaulting a federal officer with a dangerous weapon. He appealed, arguing that the identification was unreliable due to the suggestive show-up procedure and that the evidence of his flight was improperly admitted.

The United States Court of Appeals for the Tenth Circuit reviewed the case. The court found that, despite the suggestive nature of the show-up, Quiroga's identification was reliable based on the totality of the circumstances, including his opportunity to view the assailant, the accuracy of his description, and his certainty during the identification. The court also upheld the admission of evidence of Gallegos's flight, finding it relevant to his consciousness of guilt and intrinsic to the charged offense. The court concluded that the probative value of the flight evidence was not substantially outweighed by the danger of unfair prejudice.

The Tenth Circuit affirmed Gallegos's conviction, holding that the district court did not err in admitting the identification testimony or the evidence of flight.

READ THE COURT OPINION HERE:
https://www.ca10.uscourts.gov/sites/ca10/files/opinions/010111089945.pdf

FIRST AMENDMENT: Rights of Public Employees; Statement Must Concern Matters of Public Concern

Adams v. County of Sacramento
CA9, No. 27-15970, 9/9/24

Kate Adams, the former Chief of Police for the City of Rancho Cordova, was forced to resign over allegations that she sent racist text messages while working for the Sacramento County Sheriff's Office. The messages, sent in 2013, included offensive images forwarded to two friends during a private conversation. Adams claimed she was merely expressing disapproval of the images. After her resignation, the messages were publicized, leading to further professional and personal repercussions for Adams.

The United States District Court for the Eastern District of California dismissed Adams's First Amendment retaliation and conspiracy claims, ruling that her speech did not address a matter of public concern.

In evaluating the First Amendment rights of a public employee, the threshold inquiry is whether the statements at issue substantially address a matter of public concern. Speech involves matters of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest.

The plain language, form, and context of Adams's two text message sent to two friends during a friendly, casual text message conversation, forwarding offensive racist spam images, and complaining about the images does not constitute "a matter of legitimate public concern" within the meaning of *Pickering v. Board of Education, 391 U.S. 563* (1968). Adams's speech was one of personal interest, not public interest. Accordingly, evaluating the First Amendment rights of a public employee, the threshold inquiry is whether the statements at issue substantially address a matter of public concern. .

The panel examined the plain language, form, and context of Adams's two text messages, and held that under the circumstances presented by this case, sending private text messages to two friends during "a friendly, casual text message conversation," forwarding offensive racist spam images, and complaining about the images does not constitute "a matter of legitimate public concern" within the meaning of *Pickering v. Board of Education, 391 U.S. 563* (1968). Adams's speech was one of personal interest, not public interest. Accordingly, the panel affirmed the district court's dismissal of Adams's First Amendment retaliation and conspiracy claims. The district court's dismissal of Adams's First Amendment retaliation and conspiracy claims was confirmed.

The United States Court of Appeals for the Ninth Circuit reviewed the case and affirmed the district court's dismissal. The Ninth Circuit held that Adams's private text messages, which were part of a casual conversation and not intended for public dissemination, did not constitute speech on a matter of public concern under the *Pickering v. Board of Education* standard. The court emphasized that the content, form, and context of the messages indicated they were of personal interest rather than public interest. Consequently, Adams's First Amendment retaliation and conspiracy claims were dismissed, and the case was remanded for further proceedings on other unresolved claims.

READ THE COURT OPINION HERE:
https://cdn.ca9.uscourts.gov/datastore/opinions/2024/09/09/23-15970.pdf

FIFTH AMENDMENT: Taking Clause; Law Enforcement Use of Reasonable Force to Enter Property and Make an Arrest

Slaybaugh v. Rutherford County
CA6, No. 23-5765, 9/3/24

James Conn murdered Savannah Puckett. His parents, Mollie and Michael Slaybaugh, were among those who suffered the consequences. Police damaged the Slaybaughs' home while arresting Conn. The Slaybaughs filed this action under 42 U.S.C. § 1983, seeking to recover for property damage caused by law enforcement's actions. At issue is whether they are entitled to compensation under the Takings Clause of the Fifth Amendment or its analogue under the Tennessee Constitution. The officers had obtained an arrest warrant for Conn and a search warrant for the Slaybaughs' residence. Conn refused to come out of the residence. At that point, officers tried to smoke him out: they fired approximately 35 tear gas cannisters into the dwelling. They entered the home and arrested Conn shortly thereafter. No one suffered any serious physical injury.

The barrage of the house caused extensive damage to both the internal and external structure of the home and the contents inside. Because of the officers' actions, cannisters of tear gas were lodged into the drywall, flooring was burnt, and nearly-new furniture was destroyed.

According to the Slaybaughs, they have suffered approximately $70,000 in damages so far, and repairs are not complete. Adding to their misery, the Slaybaughs' home insurer denied coverage for the damage because it was caused by a civil authority. But the civil authority would not pay either: the Slaybaughs requested compensation from the Town and County, both of which refused. Having run out of options, the Slaybaugh's then filed this action in January 2023. They allege that the police officers effected a taking under the Fifth Amendment to the United States Constitution, as incorporated by the Fourteenth Amendment when the officers severely damaged their home in the course of arresting Conn.

The United States District Court for the Middle District of Tennessee dismissed the Slaybaughs' claims. The court ruled that the police actions did not constitute a taking for public use under the Fifth Amendment because the damage occurred while enforcing criminal laws..

The United States Court of Appeals for the Sixth Circuit reviewed the case. The court held that the Slaybaughs did not state a valid takings claim because the police actions were privileged under the search-and-arrest privilege. This privilege allows law enforcement to use reasonable force to enter property and make an arrest without being liable for resulting property damage, provided the actions are lawful and reasonable. The court found no evidence suggesting the police acted unlawfully or unreasonably. Consequently, the court affirmed the district court's dismissal of both the federal and state constitutional claims.

READ THE COURT OPINION HERE:
https://www.opn.ca6.uscourts.gov/opinions.pdf/24a0209p-06.pdf

MIRANDA: Statements Made to an Undercover Jailhouse Informant

Grimes v. Phillips, CA9, No. 21-56353, 6/26/24

Christopher Grimes, a California state inmate, was convicted of second-degree murder. The conviction was based, in part, on statements Grimes made to an undercover jailhouse informant after he had invoked his Fifth Amendment right to counsel. Grimes appealed his conviction, arguing that his statements to the informant should have been suppressed because they were obtained in violation of his right to counsel.

The California Court of Appeal affirmed Grimes' conviction. It held that the statements were admissible because law enforcement is not required to give Miranda warnings to a suspect before placing them in a jail cell with an undercover informant. This decision was based on the U.S. Supreme Court case *Illinois v. Perkins*, which held that the policy underlying Miranda is not implicated when a suspect makes statements to an individual they believe is a fellow inmate. Grimes' petition for review before the California Supreme Court was denied without comment.

Grimes then filed a federal habeas petition, arguing that the California Court of Appeal misapplied *Edwards v. Arizona*, which held that law enforcement must cease custodial interrogation when a suspect invokes their right to counsel unless they subsequently waive that right. The United States Court of Appeals for the Ninth Circuit affirmed the district court's denial of Grimes' petition. The court held that because the Supreme Court has never squarely addressed whether the Fifth Amendment precludes an undercover jailhouse informant posing as an inmate to question an incarcerated suspect who has previously invoked his right to counsel, the

California Court of Appeal's decision is not an unreasonable application of clearly established federal law.

READ THE COURT OPINION HERE:
https://cdn.ca9.uscourts.gov/datastore/opinions/2024/06/26/21-56353.pdf

SEARCH AND SEIZURE:

Affidavit Links Suspect to Apartment

United States v. Cortez, CA1, No 23-1029, 7/11/24

Damian Cortez was involved in a criminal case where he was charged with conspiracy to distribute and possess with intent to distribute controlled substances, and possession with intent to distribute fentanyl. The government alleged that Cortez was part of a Massachusetts gang known as "NOB" and was involved in various criminal activities, including drug trafficking. Cortez conditionally pled guilty to the charges after his motions to suppress evidence obtained from two search warrants were denied by the district court.

The United States District Court for the District of Massachusetts denied Cortez's motions to suppress evidence seized from an apartment in Attleboro, Massachusetts, and from two cell phones. Cortez argued that the affidavit supporting the search warrant for the apartment did not establish probable cause that he was involved in a RICO conspiracy or that he resided in the apartment. He also requested a Franks hearing, claiming that the affidavit contained false statements and omissions. The district court found that the affidavit provided sufficient probable cause and denied the request for a Franks hearing.

The United States Court of Appeals for the First Circuit reviewed the case and affirmed the district court's decision. The court held that the affidavit established probable cause to believe that Cortez was involved in a RICO conspiracy and that he resided in the Attleboro apartment. The court noted that the affidavit included evidence from GPS data, photographic evidence, and direct observations linking Cortez to the apartment. The court also found that Cortez did not make a substantial preliminary showing that the affidavit contained false statements or omissions necessary to warrant a Franks hearing. Therefore, the court upheld the denial of the motion to suppress and the request for a Franks hearing.

READ THE COURT OPINION HERE:
https://www.ca1.uscourts.gov/sites/ca1/files/opnfiles/23-1029P-01A.pdf

SEARCH AND SEIZURE: Cell Site Location Information; Exigent Circumstances

United States v. Karmo, CA7, No. 23-1302, 7/31/24

In September 2020, Michael Karmo informed a friend that he was traveling to Kenosha, Wisconsin, with firearms during a period of civil unrest. The friend reported this to local police, who then notified the FBI. The FBI, believing Karmo intended to shoot people and loot, requested real-time cell site location information (CSLI) from AT&T under exigent circumstances. Law enforcement located Karmo in a hotel parking lot, where he consented to searches of his vehicle and hotel room, revealing multiple firearms. Later, it was clarified that Karmo did not explicitly state he intended to shoot people and loot.

The United States District Court for the Eastern District of Wisconsin reviewed the case. Karmo moved to suppress the evidence obtained from

the CSLI collection, arguing that the exigent circumstances form contained false information. The district court denied his motion, and Karmo subsequently pleaded guilty while reserving his right to appeal the suppression issue.

The United States Court of Appeals for the Seventh Circuit reviewed the case. The court assumed, without deciding, that the CSLI collection constituted a Fourth Amendment search. It held that law enforcement reasonably believed probable cause and exigent circumstances existed, justifying the warrantless search. The court found that even without the misrepresentation in the exigency form, the totality of circumstances supported a reasonable belief of a public safety threat. The Seventh Circuit affirmed the district court's decision.

READ THE COURT OPINION HERE:
https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2024/D07-31/C:23-1082:J:Kirsch:aut:T:fnOp:N:3243281:S:0

SEARCH AND SEIZURE: Dog Sniff Does Not Constitute a Fourth Amendment Search

United States v. Plancarte
CA7, No. 23-2224, 6/26/24

After a traffic stop in Wisconsin police officers used a K-9 unit to sniff a car they suspected was involved in drug trafficking. The dog signaled the presence of drugs, leading to a search of the car and the discovery of almost eleven pounds of methamphetamine. The defendant, Juventino Plancarte, who was in the car during the stop, challenged the district court's denial of his motion to suppress the evidence.

He moved to suppress the evidence obtained after the dog's sniff, arguing that the dog could identify both illegal marijuana products and legal products that come from cannabis plants. Therefore, he contended that the sniff violated the Fourth Amendment as it was a warrantless search unsupported by probable cause. However, the district court denied Plancarte's suppression motion, leading to his guilty plea to both drug charges.

The United States Court of Appeals for the Seventh Circuit affirmed the district court's decision. The court held that the dog sniff did not constitute a Fourth Amendment search as it did not disrupt any reasonable expectation of privacy. The court noted that the dog sniff occurred outside the home, in a public area, and during a lawful traffic stop, which generally does not implicate legitimate privacy interests. The court also pointed out that the dog's sniff was not designed to disclose any information other than the presence or absence of narcotics. Therefore, the court concluded that the district court appropriately denied Plancarte's motion to suppress.

READ THE COURT OPINION HERE:
https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2024/D06-28/C:23-2224:J:Flaum:aut:T:fnOp:N:3229047:S:0

SEARCH AND SEIZURE: Excessive Force in Search With Warrant Without Exigent Circumstances

Cuevro v. Sorenson, CA10, No. 22-1387, 8/30/24

Patricia Cuevro sued multiple officers from the Mesa County Sheriff's Office and Grand Junction Police Department under 42 U.S.C. § 1983, alleging Fourth and Fifth Amendment violations. The

officers executed a search warrant for a stolen Sno-Cat at Plaintiff's property, which included a garage and an attached residence. Believing the Sno-Cat was in the garage, officers obtained a search warrant and returned with SWAT units. Without knocking or announcing their presence, they fired chemical munitions into the residence, causing significant property damage. The search revealed no humans, only a dog, and $50,000 in damages.

The United States District Court for the District of Colorado dismissed Plaintiff's complaint, granting qualified immunity to the defendants. The United States Court of Appeals for the Tenth Circuit reviewed the case de novo. The court concluded that Plaintiff plausibly alleged individual actions by each defendant and that the officers exceeded the scope of the search warrant by entering the residence, which could not house the Sno-Cat. The court also found that the officers violated clearly established Fourth Amendment rights by failing to knock and announce their presence and using excessive force without exigent circumstances. The Tenth Circuit reversed the district court's dismissal and remanded for further proceedings.

READ THE COURT OPINION HERE:
https://www.ca10.uscourts.gov/sites/ca10/files/opinions/010111103112.pdf

SEARCH AND SEIZURE: Geofence Warrants

United States v. Chartie, CA4, No. 22-4489, 7/9/24

Okello Chatrie was convicted for robbing a credit union in Virginia. The police, unable to identify the suspect from security footage and witness interviews, obtained a geofence warrant to access Google's Location History data. This data revealed that Chatrie's phone was in the vicinity of the bank during the robbery. Chatrie was subsequently indicted and pleaded not guilty, moving to suppress the evidence obtained via the geofence warrant.

The district court denied Chatrie's motion to suppress, citing the good-faith exception to the exclusionary rule. Chatrie entered a conditional guilty plea and was sentenced to 141 months' imprisonment and 3 years' supervised release. He appealed, arguing that the geofence warrant violated his Fourth Amendment rights and that the fruits of the warrant should be suppressed.

The United States Court of Appeals for the Fourth Circuit affirmed the district court's decision. The court held that Chatrie did not have a reasonable expectation of privacy in the two hours' worth of Location History data voluntarily exposed to Google. Therefore, the government did not conduct a Fourth Amendment search when it obtained this information from Google. The court rejected Chatrie's argument that the geofence warrant violated his Fourth Amendment rights, stating that he voluntarily exposed his location information to Google by opting into Location History.

EDITORS NOTE: Google's extensive collection of location data, derived from numerous devices globally, presents a valuable asset for law enforcement agencies during investigative processes. By acquiring a geofence warrant, investigators are granted access to location information within a designated geographical region and specific time frame, which enables them to pinpoint potential suspects and witnesses or discern patterns of movement associated with crimes.

While traditional court orders permit searches related to known suspects, geofence warrants

are issued specifically because a suspect cannot be identified. Law enforcement simply specifies a location and period of time, and, after judicial approval, companies conduct sweeping searches of their location databases and provide a list of cell phones and affiliated users found at or near a specific area during a given time frame, both defined by law enforcement.

A Harvard Law Review article captioned Gofence Warrants and the Fourth Amendment contains valuable information on issues regarding these warrants and provides helpful information to the individual drafting these warrants.

In *United States v. Smith*, CA5, No.23-60321, 8/9/24, three individuals, Jamarr Smith, Thomas Iroko Ayodele, and Gilbert McThunel, were convicted of robbery and conspiracy to commit robbery. The convictions were based on evidence obtained through a geofence warrant, which collected location data from Google to identify suspects. The robbery involved the theft of $60,706 from a U.S. Postal Service route driver, Sylvester Cobbs, who was attacked with pepper spray and a handgun. Video footage and witness testimony linked the suspects to the crime scene, but no arrests were made immediately. Investigators later used a geofence warrant to gather location data from Google, which led to the identification of the suspects.

The United States District Court for the Northern District of Mississippi denied the defendants' motion to suppress the evidence obtained through the geofence warrant. The defendants argued that the warrant violated their Fourth Amendment rights due to lack of probable cause and particularity, and that the government did not follow proper legal procedures in obtaining additional information from Google. The district court found that law enforcement acted in good faith and denied the motion to suppress. The defendants were subsequently convicted by a jury and sentenced to prison terms.

The Court of Appeals for the Fifth Circuit reviewed the case and held that geofence warrants, as used in this case, are unconstitutional under the Fourth Amendment because they resemble general warrants, which are prohibited. However, the court affirmed the district court's decision to deny the motion to suppress, citing the good-faith exception. The court concluded that law enforcement acted reasonably given the novelty of the geofence warrant and the lack of clear legal precedent. Therefore, the convictions were upheld.

EDITORS NOTE: It should be noted that several courts have found geofence warrants to be general warrants and not in compliance with the Fourth Amendment. This information is set forth about this evolving aspect of the law.

READ THE COURT OPINION HERE:
https://www.ca4.uscourts.gov/opinions/224489.p.pdf

SEARCH AND SEIZURE:

Inaccuracies in Search Warrant Affidavit

United States v. Osterman
CA7, No. 22-2773, 8/1/24

Paul Osterman was prosecuted for sex trafficking a child after a detective in Oneida County, Wisconsin, obtained a warrant to place a GPS tracker on his truck. The warrant was based on an affidavit that included incorrect information. Osterman argued that these inaccuracies meant the affidavit did not establish probable cause.

The United States District Court for the Eastern District of Wisconsin held an evidentiary hearing and found that the affidavit did establish probable cause despite the inaccuracies. The court denied Osterman's motion to suppress.

The United States Court of Appeals for the Seventh Circuit reviewed the case and agreed that the detective acted recklessly by not correcting the affidavit. However, the court independently reviewed the affidavit and concluded that it still established probable cause even without the misstatements. Therefore, the court affirmed the district court's decision to deny the motion to suppress. The main holding was that the inaccuracies in the affidavit were immaterial to the probable cause determination, and thus, the evidence obtained from the GPS tracking was admissible.

READ THE COURT OPINION HERE:
https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2024/D08-01/C:22-2773:J:Jackson-Akiwumi:aut:T:fnOp:N:3243422:S:0

SEARCH AND SEIZURE:

Officers Good Faith Reliance on Warrant

United States v. Gonzalez
CA1, No. 24-1070, 8/26/24

Carlos Gonzalez's residence was searched by the government for evidence of an illegal pill-making operation. Gonzalez moved to suppress the evidence found during the search, arguing that the search warrant was based on stale information and lacked probable cause. The district court agreed, finding that the facts supporting the search warrant were too old and that the affidavit was so bare bones that no reasonable officer could have relied on it. The court noted that the mastermind of the operation had moved out months earlier, there was little suspicious activity afterward, and the equipment was portable.

The United States District Court for the District of Massachusetts granted Gonzalez's motion to suppress the evidence. The court concluded that the information in the affidavit was too stale to support probable cause and that the connection between the residence and any recent criminal activity was extremely thin. The court also determined that the good-faith exception did not apply because the affidavit was too conclusory and lacked sufficient detail to justify reliance on the warrant.

The United States Court of Appeals for the First Circuit reviewed the case. The court decided to bypass the probable-cause determination and focused on whether a reasonable officer could have relied on the warrant in good faith. The court found that a reasonable officer could have believed that the pill-making operation was still ongoing at the residence, given the long-standing nature of the operation, the continued ownership of the house by the mastermind, and the involvement of Gonzalez and his girlfriend. The court vacated the district court's ruling on the motion to suppress and remanded the case for further proceedings.

READ THE COURT OPINION HERE:
https://www.ca1.uscourts.gov/sites/ca1/files/opnfiles/24-1070P-01A.pdf

SEARCH AND SEIZURE:

Police Observations After 9-1-1 Call Results in Probable Cause

United States v. Gonzalez
CA11, No. 23-10578, 7/19/24

Police responded to a 911 call about a suspicious individual in a residential neighborhood. Officer Sanchez encountered Victor Grandia Gonzalez, who matched the description given by the complainant. Gonzalez was walking in the street, wearing dark clothing, and carrying a backpack. He appeared nervous and sweaty. Officer Exantus, after speaking with the complainant, learned that Gonzalez had been seen looking into mailboxes and concealing himself between cars. Upon arrival, Exantus patted down Gonzalez and found scissors. Gonzalez admitted to living out of his car and showed a photo of his ID listing a home county 30 minutes away. Based on these observations and the complainant's report, Gonzalez was arrested for loitering and prowling. A search of his backpack revealed stolen mail.

The U.S. District Court for the Southern District of Florida denied Gonzalez's motion to suppress the mail evidence and statements, finding that the officers had probable cause for the arrest. Gonzalez pleaded guilty to one count of possessing stolen mail but reserved the right to appeal the suppression ruling. The U.S. Court of Appeals for the Eleventh Circuit found that the officers had probable cause to arrest Gonzalez for loitering and prowling under the totality of the circumstances, including the complainant's report and the officers' observations. The court affirmed the district court's judgment.

READ THE COURT OPINION HERE:
https://media.ca11.uscourts.gov/opinions/pub/files/202310578.pdf

SEARCH AND SEIZURE: Probable Cause; Corroboration of an Anonymous Tip

United States v. Burrell
CA6, No. 23-1261, 8/15/24

DEA agents, acting on an anonymous tip, conducted a four-month investigation into Robert Cortez Burrell's alleged drug trafficking activities. They surveilled Burrell, observed suspicious behavior consistent with drug transactions, and corroborated the tip with additional evidence, including his criminal history and interactions with known drug dealers. Based on this information, they executed search warrants for four residences associated with Burrell, recovering significant quantities of illegal narcotics, firearms, and drug-manufacturing equipment. Burrell was convicted of multiple drug-related offenses and being a felon in possession of firearms and ammunition.

The U.S. District Court for the Eastern District of Michigan denied Burrell's motion to suppress the evidence obtained from the searches, as well as his motion to dismiss the firearms and ammunition charges on Second Amendment grounds. The court found that the search warrants were supported by probable cause. The Sixth Circuit reviewed the case and affirmed the district court's judgment. The appellate court held that the search warrants were supported by probable cause, as the DEA agents had sufficiently corroborated the anonymous tip through extensive surveillance and other investigative methods. The court also found that the district court did not abuse its discretion in denying Burrell's motion to dismiss as untimely and that Burrell's constitutional challenges to the firearms and ammunition charges failed.

READ THE COURT OPINION HERE:
https://www.opn.ca6.uscourts.gov/opinions.pdf/24a0179p-06.pdf

SEARCH AND SEIZURE: Probable Cause; Reliability of Drug Detection Dog

United States v. Collier, CA8, No. 23-3255, 9/16/24

While patrolling Interstate 40 in Lonoke County, Arkansas, State Police Corporal Travis May stopped Tommy Collier for drifting into the shoulder. May noticed Collier's shaking hands, a disorderly car interior, and an unusual travel itinerary, which aroused his suspicion. Collier, a resident of Mississippi, was driving a car rented in Las Vegas with a Utah license plate. After Collier declined a search request, May called a K-9 unit. The drug-detection dog, Raptor, alerted to the presence of drugs, leading to a search that uncovered ten bundles of cocaine. Collier was arrested.

The United States District Court for the Eastern District of Arkansas conducted the trial, where Collier was found guilty by a jury. Collier appealed, raising several issues, one of which was the reliability of the drug-detection dog. The United States Court of Appeals for the Eighth Circuit reviewed the case. The court affirmed the district court's judgment on all issues.

The Court stated that a dog is presumptively reliable at detecting illicit drugs—and its alert establishes probable cause for a search—if the dog has satisfactorily completed a bona fide certification or training program. *Florida v. Harris*, 568 U.S. 237, 246–47 (2013). This presumption may be overcome if a defendant can show by cross-examination or opposing evidence the inadequacy of the certification or training program or that the circumstances surrounding a canine alert undermined the case for probable cause.

We reject Collier's challenge to Raptor's reliability. Before encountering Collier's car, Raptor completed a 320-hour basic training course under the Arkansas State Police. Collier concedes that Raptor maintained its drug-detection skills through coordinated monthly sessions. The record contains no opposing evidence undermining Raptor's reliability. The record shows that authorities had previously deployed Raptor 158 times, it had alerted 73 times, and authorities had discovered illicit drugs 71 times. In the field, Raptor's accuracy rate was 97 percent. Our cases hold that, absent contradictory circumstances, a trained dog's alert will establish probable cause when the dog's previous in-field accuracy rate exceeds 50 percent. See *United States v. Holleman*, 743 F.3d 1152, 1157 (8th Cir. 2014) (57 percent); *United States v. Donnelly,* 475 F.3d 946, 955 (8th Cir. 2007) (54 percent). Raptor far surpassed our circuit's 50-percent standard.

Collier also questions how Raptor alerted, suggesting that its alert was insufficiently profound. Our probable cause inquiry is always fact specific. *United States v. Tuton*, 893 F.3d 562, 571 (8th Cir. 2018). Every dog is unique, and a dog that smells illicit drugs is not required to communicate with its handler in any specific way. See *Holleman*, 743 F.3d at 1156. Dogs alert in many different manners. One dog may alert in one manner while another dog may alert in another manner. *United States v. Howard*, 448 F. Supp. 2d 889, 898 (E.D. Tenn. 2006), aff'd, 621 F.3d 433 (6th Cir. 2010). The reliability of a dog's alert, not its manner, is what matters. See *Holleman*, 743 F.3d at 1156 ("Fourth Amendment jurisprudence does not require drug dogs to abide by a specific and consistent code in signaling their sniffing of drugs to their handlers.")

Based on the record, we conclude that Raptor's own unique manner of alert reliably signaled the probable presence of illicit drugs. Because Raptor was reliable and its alert was sufficient, Blackerby

and May had probable cause to search Collier's car. The district court correctly admitted the narcotics evidence derived from the search.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/09/233255P.pdf

SEARCH AND SEIZURE: Instagram Video Showing Gang Members Brandishing Weapons
United States v. Brown
CA4, No. 22-5464, 8/16/24

Detective Frias of the Richmond Police Department observed an Instagram video showing known gang member J.S. and others brandishing firearms at the Belt Atlantic apartment complex. The video, posted shortly before the incident, depicted two men later identified as Anthony Cornelius Brown, Jr., and Dequane Aquil McCullers. Detectives accessed live surveillance footage showing individuals matching the video's description at the same location. Upon arrival, the officers approached the men, who attempted to walk away. Brown and McCullers were detained and frisked, leading to the discovery of firearms.

The United States District Court for the Eastern District of Virginia denied Brown and McCullers' motions to suppress the evidence of the firearms. The court found that the officers had reasonable suspicion to stop and frisk the defendants based on the video and their behavior. Brown and McCullers entered conditional guilty pleas, reserving the right to appeal the suppression ruling.

The United States Court of Appeals for the Fourth Circuit reviewed the case. The court held that the officers had reasonable suspicion to stop Brown and McCullers based on the Instagram video and their actions upon the officers' arrival. The court also found that the frisk of McCullers was justified as the officers reasonably believed he was armed. Additionally, the court ruled that the length of Brown's detention was reasonable given the circumstances and the need to ensure officer safety. The Fourth Circuit affirmed the district court's denial of the motions to suppress.

READ THE COURT OPINION HERE:
https://www.ca4.uscourts.gov/opinions/224564.p.pdf

SEARCH AND SEIZURE: Stop and Frisk; Police Cars Alleged to Have Blocked Defendants From Leaving
United States v. Sanford, CA8, No. 23-108, 7/16/24

The owner of a nightclub in Waterloo, Iowa, on September 5, 2021, texted Waterloo Police Department (WPD) Officer Amira Ehlers to say that two men were "smoking and drinking" in a car in front of the club. Officer Ehlers texted back, asking for a description of the car, but she did not receive a response before she began driving to the club. When Ehlers arrived, she parked in the traffic lane of the street, in front of the main entrance, as she usually did when responding to calls from this location. Ehlers put on her amber warning lights and got out of her squad car to speak with the club's owner, who pointed to a blue Kia sedan parked at the curb in front of the club. By this point, WPD Sergeant Spencer Gann had also arrived. He parked in the street directly behind Ehlers' squad car and asked her which vehicle was the subject of the call. Ehlers told him it was the Kia.

As Ehlers approached the Kia, the driver's side window was down, and she saw two men—Sanford and Simmons—one in the driver's seat

and one in the passenger seat. She also smelled marijuana coming from the Kia. The officers ordered Sanford and Simmons out of the car, searched it, and found marijuana, a large amount of cash, and a handgun.

At the district court, both Sanford and Simmons filed motions to suppress. They argued they were unlawfully seized when the officers "completely blocked in the Kia" at the curb in a manner that prevented them from leaving. And because the alleged seizure occurred before Ehlers smelled marijuana, all evidence seized from the Kia must be suppressed as a result. After an evidentiary hearing, the district court made specific findings about the location of each vehicle parked in front of the club to determine whether the location of the squad cars prevented the Kia from leaving the scene. It found that the Kia was parked alongside the curb, and that there was an empty parking space directly in front of it large enough to accommodate another vehicle. In front of that empty space was an SUV. Ehlers parked her squad car in the street parallel to the empty space. Gann parked his squad car behind Ehlers' car and alongside the Kia. No car was parked immediately behind the Kia, either alongside the curb or in the traffic lane.

Based on these findings, the district court concluded that Sanford and Simmons were not unlawfully seized prior to Ehlers approaching the Kia and smelling marijuana coming from inside it. It noted that the Kia's "most usual and convenient path of travel from the curb to the street" was blocked because of the position of the officers' squad cars. But relying on photographs and video footage of the scene that night, the court found that the Kia could have backed up along the curb or into the adjoining driveway, without facing any obstacle, despite the placement of the squad cars.

The district court also addressed the alternative argument that no reasonable person in the Kia would have felt free to leave. It found that the arrival of armed and uniformed law enforcement officers in marked cars with flashing warning lights was insufficient, without more, to lead a reasonable person to believe they could not leave the scene, and it denied the motions.

The Court of Appeals for the Eighth Circuit agreed with the district court that a reasonable person in defendants' position would have felt free to leave. See *United States v. Lillich*, 6 F.4th 869, 875 (8th Cir. 2021) (explaining that a Fourth Amendment seizure occurs only when, based on "all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." Defendants rely heavily on their assertion that they were "completely blocked" in by the squad cars, but we have found no clear error in the district court's finding otherwise. They also point out that the officers arrived at the club in uniform and armed, with the warning lights flashing on their squad cars. But these factors alone are insufficient to make a reasonable person believe they would not be free to leave the area of the club. The positioning of the marked squad cars limited the options for the Kia's egress, but Sanford and Simmons point to no other factors to support their assertion that they were seized after the officers arrived at the club but before Ehlers smelled marijuana.

The judgment of the district court is affirmed.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/07/232108P.pdf

SEARCH AND SEIZURE:

Warrantless Search of Probationer's Home Also Occupied by Non-Probationer

United States v. Harden
CA11, No. 20-14004, 6/18/24

A warrantless search of a probationer's home was also occupied by a non-probationer. The probationer, Tremayne Linder, was on probation for burglary and attempted armed robbery. His probation conditions included a clause that allowed for warrantless searches of his residence. The non-probationer, Lakesia Harden, was Linder's girlfriend and was aware of his probation status. The police, suspecting marijuana use, conducted a warrantless search of Linder's home and found drugs in a shared closet. Harden was subsequently arrested and charged with possession of marijuana and meth with intent to distribute.

Harden moved to suppress the drugs in the U.S. District Court for the Southern District of Georgia and her post-arrest statements as fruits of the allegedly unlawful search. The court denied the suppression motions. At trial, the government admitted the drugs and Harden's statements into evidence, and the jury found her guilty. Harden appealed the denial of her suppression motions.

The U.S. Court of Appeals for the Eleventh Circuit held that a warrantless search of a probationer's home, based on reasonable suspicion and a probation condition allowing warrantless searches, is not rendered unreasonable because the home was occupied by another person who knew about the probation. The court affirmed the district court's decision, ruling that the search was reasonable and did not violate the Fourth.

READ THE COURT OPINION HERE:
https://media.ca11.uscourts.gov/opinions/pub/files/202014004.pdf

SECOND AMENDMENT:

Domestic Violence Restraining Order

United States v. Rahimi
USSC, No. 22-915, 6/21/24

In December 2019, Zackey Rahimi had a violent altercation with his girlfriend, C. M., who is also the mother of his child. Rahimi grabbed C. M., dragged her back to his car, and shoved her in, causing her to hit her head. When a bystander witnessed the incident, Rahimi retrieved a gun from his car. C. M. managed to escape, and Rahimi fired his gun, though it is unclear whether he was aiming at C. M. or the witness.

Following this incident, C. M. sought a restraining order against Rahimi, which was granted by a state court in Texas. The order included a finding that Rahimi had committed "family violence" and posed "a credible threat" to the "physical safety" of C. M. or their child. The order also suspended Rahimi's gun license for two years. Despite the order, Rahimi violated it by approaching C. M.'s home and contacting her through social media. He was later charged with aggravated assault with a deadly weapon for threatening another woman with a gun.

Rahimi was indicted for possessing a firearm while subject to a domestic violence restraining order, in violation of 18 U. S. C. §922(g)(8). Rahimi moved to dismiss the indictment, arguing that Section 922(g)(8) violated his Second Amendment right to keep and bear arms. The District Court denied his motion, and Rahimi pleaded guilty. On appeal, he again raised his Second Amendment challenge, which was denied.

The Supreme Court of the United States held that when a restraining order contains a finding that an individual poses a credible threat to the physical safety of an intimate partner, that individual

may—consistent with the Second Amendment—be banned from possessing firearms while the order is in effect. The Court found that since the founding, the nation's firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms.

READ THE COURT OPINION HERE:
https://www.supremecourt.gov/opinions/23pdf/22-915_8o6b.pdf

SECOND AMENDMENT:
Firearm with Obliterated Serial Number

United States v. Price, CA4, No. 22-4609, 8/6/24

Randy Price was charged with possession of a firearm with an obliterated serial number and possession of a firearm by a felon. Price moved to dismiss the indictment, arguing that the statute was facially unconstitutional.

The U.S. District Court for the Southern District of West Virginia concluded that the conduct prohibited by the statute was protected by the Second Amendment and that there was no historical tradition of firearm regulation consistent with the statute.

The U.S. Court of Appeals for the Fourth Circuit reviewed the case and reversed the district court's decision. The Fourth Circuit held that the conduct regulated by the statute does not fall within the scope of the Second Amendment because a firearm with a removed, obliterated, or altered serial number is not a weapon in common use for lawful purposes. The court concluded that there is no compelling reason for a law-abiding citizen to possess such a firearm, and such weapons are primarily used for illicit purposes. Therefore, the statute's regulation of these firearms does not violate the Second Amendment.

READ THE COURT OPINION HERE:
https://www.ca4.uscourts.gov/opinions/224609.p.pdf

SECOND AMENDMENT: Restricting the Right of Individuals 18 to 20 to Carry Firearms

Worth v. Jacobson, CA8, No. 23-3119, 7/16/24

Three gun rights organizations and their members challenged Minnesota's permit-to-carry statute, which requires applicants to be at least 21 years old, arguing it violates the Second and Fourteenth Amendments. The U.S. District Court for the District of Minnesota granted summary judgment to the plaintiffs, finding that the Second Amendment's plain text covered their conduct and that the government failed to show that restricting 18 to 20-year-olds' right to bear handguns in public was consistent with the nation's historical tradition of firearm regulation. The Court ruled in favor of the plaintiffs, declaring the age restriction facially unconstitutional for otherwise qualified 18 to 20-year-olds and enjoining its enforcement.

The U.S. Court of Appeals for the Eighth Circuit reviewed the case and affirmed the district court's decision. The appellate court held that ordinary, law-abiding 18 to 20-year-olds are part of "the people" protected by the Second Amendment. The court found that Minnesota failed to provide sufficient historical analogues to justify the age restriction, noting that the state's proffered evidence did not meet the burden of demonstrating a historical tradition of similar firearm regulations. Consequently, the court ruled that the age restriction in Minnesota's permit-to-carry statute is unconstitutional.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/07/232248P.pdf

SECOND AMENDMENT: Supremacy Clause

United States v. State of Missouri
CA8, No. 23-1457, 8/26/24

In 2021, Missouri enacted the Second Amendment Preservation Act, which declared certain federal firearms regulations as infringements on the right to keep and bear arms and invalid within the state. The Act prohibited state officials from enforcing these federal laws and allowed private citizens to sue state entities that did so, imposing penalties for violations.

The United States sued Missouri, arguing that the Act violated the Supremacy Clause of the U.S. Constitution. The United States District Court for the Western District of Missouri denied Missouri's motions to dismiss for lack of standing and failure to state a claim. The court granted summary judgment in favor of the United States, ruling that the Act violated the Supremacy Clause and enjoined its implementation and enforcement. Missouri appealed the decision.

The United States Court of Appeals for the Eighth Circuit reviewed the case and affirmed the district court's judgment. The appellate court held that the United States had standing to sue because the Act caused concrete and particularized injury by impairing federal law enforcement efforts. The court also ruled that the Act's attempt to invalidate federal law was unconstitutional under the Supremacy Clause. The court found that the Act was not severable, as its provisions were fundamentally interconnected with the invalidation of federal law. Consequently, the injunction against the Act's implementation and enforcement was upheld.

READ THE COURT OPINION HERE:
https://ecf.ca8.uscourts.gov/opndir/24/08/231457P.pdf