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Federal Law Enforcement Training Centers
Office of Chief Counsel
Legal Training Division

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The Federal Law Enforcement -Informer-

A MONTHLY LEGAL RESOURCE AND COMMENTARY FOR LAW ENFORCEMENT OFFICERS AND AGENTS

Welcome to this installment of *The Federal Law Enforcement Informer (The Informer).* The Legal Training Division of the Federal Law Enforcement Training Centers' Office of Chief Counsel is dedicated to providing law enforcement officers with quality, useful and timely United States Supreme Court and federal Circuit Courts of Appeals reviews, interesting developments in the law, and legal articles written to clarify or highlight various issues. The views expressed in these articles are the opinions of the author and do not necessarily reflect the views of the Federal Law Enforcement Training Centers. *The Informer* is researched and written by members of the Legal Division. You can join *The Informer* Mailing List, and have *The Informer* delivered directly to you via e-mail by clicking on the link below.

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The Informer – February 2024

Circuit Courts of Appeals

Fourth Circuit

United States v. Perry: Whether a suspect was unconstitutionally seized during a traffic stop, whether his girlfriend could consent to search his cell phone, and whether charges should have been dropped when the government failed to preserve dashcam footage….pg 3.

Fifth Circuit

United States v. Ramirez: Whether a suspect tossing a jacket over a fence, onto his mother's property is abandonment, thereby allowing officers to seize and search without violation of the Fourth Amendment...pg 6.

Barnes v. Felix: Whether the court's "Moment of Threat" analysis supported a finding of Qualified Immunity in a deadly force scenario when a lawfully stopped vehicle began to move…pg 8.

Eighth Circuit

United States v. Ralston: Whether the requirements of the "Leon Good Faith" exception were meet where officers executed a search warrant on the suspect's property, and also that of a nearby neighbor…pg 10.

Ninth Circuit

United States v. Parkins: Whether a co-tenant must be physically in the doorway to achieve status of "Present and Objecting" or whether presence on the premises, including its immediate vicinity, is sufficient…pg 12.

Tenth Circuit

United States v. Ramos: Whether the impoundment of a vehicle from private property without a reasonable, non- pretextual community-care-taking rational violates the Fourth Amendment. The court discusses the five "Sanders Factors" in its decision…pg 14.

United States v. Dawson: Whether a police officer violated the Fourth Amendment by prolonging a traffic stop to determine whether the driver of a rental vehicle was authorized to drive it…pg 16

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FLETC Informer Webinar Schedule: March – May 2024

March 20, 2024, 2:30 – 3:30 FLETC OCC Informer Webcast Series "Inspections" presented by John Besselman, Senior Advisor for Training, Federal Law Enforcement Training Center, Glynco, Georgia

Click Here

April 3, 2024, 2:30 – 3:30 FLETC OCC Informer Webcast Series "Inventories" presented by John Besselman, Senior Advisor for Training, Federal Law Enforcement Training Center, Glynco, Georgia

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April 9, 2024, 10:30 – 11:30 (MST) FLETC OCC Informer Webcast Series "Use of Force and the Duty to Intervene" presented by Arie Schaap, Attorney Advisor/Senior Instructor, Federal Law Enforcement Training Center, Artesia, New Mexico. In this session we will discuss an officer's duty to intervene and how failure to do so can lead to criminal and/or civil liability just like that of the officer committing the unconstitutional conduct. While this duty to intervene is broader than just use of force, the focus of this webinar will be on excessive use of force cases.
Click Here

April 17, 2024, 12:30 – 1:30 (MST) FLETC OCC Informer Webcast Series "Use of Force in an Impaired Driving Case" presented by Rachel Smith, Attorney Advisor/Senior Instructor, Federal Law Enforcement Training Center, Artesia, New Mexico. In this session, we will discuss the legal standard under which a use of force incident will be examined, the significance of an impaired driver in a use of force incident, and how to effectively articulate the need for use of force.
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May 17, 2024, 10:30 – 11:30 (MST) FLETC OCC Informer Webcast Series "Aerial surveillance and the Fourth Amendment" presented by Arie Schaap, Attorney Advisor/Senior Instructor, Federal Law Enforcement Training Center, Artesia, new Mexico. In this session we will discuss when aerial surveillance of an individual's property constitutes a search under the Fourth Amendment and explore legal issues relating to the technology employed and the duration of the surveillance.
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CASE SUMMARIES

Circuit Courts of Appeals

Fourth Circuit

United States v. Perry, No: 21-4684 (4th Cir. 2024)

In this case the United States Court of Appeals decided numerous issues concerning the defendant's appeal. This synopsis will address only the three issues that are most closely related to law enforcement. Whether the defendant was unlawfully detained and searched during a traffic stop; whether the defendant's girlfriend had authority to consent to a search of his

cell phone; and whether the government's failure to preserve dashcam footage warranted a dismissal of charges.

Factual Background:

The defendant, Adonis Perry, was arrested in 2017 for possessing a firearm as a felon and for possessing marijuana after he was found with both during a traffic stop. Officers initially observed the defendant driving a white SUV with a missing plate. When the officers executed a U – turn to follow the vehicle, it accelerated in an apparent attempt to evade law enforcement. The vehicle sped through two stop signs and was found in an apartment parking lot. Neither the driver (defendant) nor passenger lived in the apartment complex. As the officer approached, he observed the defendant's furtive movements either placing or retrieving something from under the passenger seat and the center consol.

Analysis:

The Traffic Stop: Perry's first argument was that he was unconstitutionally seized for much of the traffic stop. As such, he asserts that the district court erred in refusing to suppress all the evidence that came from the stop as fruit of the poisonous tree. However, the court concluded that the seizure was constitutional. The Fourth Amendment protects the right of the people to be free from "unreasonable searches and seizures. Either probable cause or reasonable suspicion may justify a traffic stop. But a traffic stop's duration cannot extend indefinitely. Instead, a stop's "mission" determines how long an officer may tolerably detain the subject of his investigation. He may not extend the stop beyond the scope of its initial mission without either the driver's consent or a 'reasonable suspicion' that illegal activity is afoot. So, the validity of an officer's actions during a traffic stop often turns on whether those actions advanced the "mission" of the stop. Here, the officers seized the vehicle and its occupants after finding the car stopped in the parking lot of an apartment complex with the passenger door open. At that point, the officers activated their blue lights and ordered the two occupants to show their hands and join them at the patrol car. This seizure was supported by both *probable*

cause of observed traffic violations and *reasonable suspicion* of other criminal activity. The officers had observed the vehicle run two stop signs, which bodycam footage corroborated. This observation established probable cause that a traffic violation had occurred. When an officer observes a traffic offense—however minor—he has probable cause to stop the driver of the vehicle.

But the reason for this seizure was not limited to a mere traffic violation. The lower court accepted that the officers perceived running the stop signs as ***unprovoked flight*** after the officers turned around to follow the SUV. The Supreme Court has long acknowledged, officers may stop individuals in a high-crime area who engage in "unprovoked flight" upon noticing the police. The Defendant argued that, since they were pulled over for traffic infractions, any investigation not directly related to those specific infractions was unreasonable. But this ignored important evidence that drove the mission of the seizure. The defendant and passenger weren't pulled over just for the traffic infractions. The officers testified, and the lower court reasonably found, that when they made the U-turn to follow the SUV with a missing license plate, Perry and McCarr accelerated away. It was during this escape that they ran the two stop signs. Thus, the court found that Officer Miller witnessed the defendant engage in ***unprovoked flight*** upon noticing the police.

Accordingly, the mission for the seizure was not, at any point, limited to the observed traffic violation (running two stop signs). The officers reasonably suspected that criminal activity was afoot based on the defendant's reaction to the officers' U-turn. Investigating that activity was therefore part of the traffic stop's mission from the beginning.

The Cell Phone. The defendant further claimed that the police had no constitutional basis to search his cell phone, even with his girlfriend's consent. This issue turned on several facts determined by the lower court. First, the girlfriend had at least joint, if not sole, access and control over the cell phone at the time of the search. For the seven months leading up to her decision to give the phone to federal agents, the girlfriend was the only person to use the cell phone. She regularly used the phone for purely personal purposes. Importantly, she had access to the contents of the ***entire phone***. As such, she could go through the phone's photos, which she discussed with the defendant

during a recorded jail call. While Defendant Perry contends that he limited the girlfriend's authority to use the phone, he points to nothing in the record that supports his assertion. Indeed, his positive reaction to his girlfriend's admission that she was going through the phone's contents strongly undercuts his argument. Thus, the court concluded that she had **actual authority** to consent to the phone's search, and the government's failure to get Perry's consent or a warrant was irrelevant.

The Dashboard Camera. Finally, the defendant argues that the charges against him should be dismissed because the officer failed to preserve the dashboard footage from the traffic stop, thus depriving him of due process. Spoliation of evidence, or the destruction of or failure to preserve evidence, can indeed be a due-process violation. However, to rise to that level the defendant must show that the unpreserved evidence had "an exculpatory value that was apparent before the evidence was destroyed ***and*** was of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means." **In addition**, the defendant must establish that the police acted in "bad faith" in failing to preserve the evidence. Thus, spoliation will only violate due process where the police themselves by their conduct indicate that the evidence could form a basis for exonerating the defendant" yet still failed to preserve it. In the case at hand, defendant Perry could not satisfy any of these elements.

Here, Officer Miller and a dashboard-camera expert both testified that Officer Miller's bodycam captured the same, if not better, footage of the traffic stop. But the jury watched that video and found nothing exculpatory. The record further suggests it would have confirmed what the bodycam video already captured. The fact that the two videos were duplicative also prevents Perry from arguing that "comparable evidence" was not reasonably available. Finally, Perry failed to show that Officer Miller did not preserve potentially exculpatory evidence in bad faith. Therefore, his due-process argument failed.

For the Court's Opinion: US v. Perry, No. 21-4684 (4th Cir. 2024) :: Justia

Fifth Circuit

United States v. Ramirez, No: 22-50042 (5th Cir. 2023)

In this case the United States Court of Appeals for the Fifth Circuit ruled that a suspect tossing his jacket (containing a gun) over a chain link fence, onto his mother's property, did not sufficiently establish abandonment.

Factual Background:

Officer Copeland of the San Antonio Police Department, was told to be on the lookout for a truck that was registered to Ramirez's mother. During his shift Officer Copeland discovered the truck, with Ramirez in the driver's seat, at an intersection diagonally across from the mother's house. With Ramirez driving, the truck rolled through a stop sign before pulling into his mother's driveway. The officer Copeland initiated a stop in response to the traffic violation. But, at that point Ramirez was already exiting the vehicle, which was now parked in front of his mother's chain link fence. A female passenger also exited the vehicle. Officer Copeland observed Ramirez walk toward the gate and toss his jacket over the fence into his mother's yard and onto the back corner of a closed trash bin. Ramirez then began to walk around the front of the truck, at which point Officer Copeland confronted him, patted him down, placed him in handcuffs, and detained him in the back of his patrol vehicle. Officer Copeland also detained the female passenger. The officer later testified that he felt it was necessary to secure Ramirez and the female passenger as a safety precaution because they had exited the vehicle without being instructed to do so and because the female passenger attempted to approach the truck multiple times despite being instructed not to. The officer advised Ramirez that he had been stopped because he ran a stop sign, to which Ramirez replied, "my bad." While patting him down, the officer asked Ramirez whether he had any weapons, and Ramirez responded that he did not. He then asked Ramirez for permission to search the truck, which Ramirez gave. No contraband was found in the truck. Officer Ryan Cahill arrived soon thereafter, whereupon Officer Copeland asked Officer Cahill to reach over the fence to retrieve the jacket and, searching it, discovered a gun in one of its pockets. Officer Copeland did not ask for consent to search the jacket or to enter the property. Ramirez was charged with being a felon in possession of a firearm. He moved to suppress the gun, arguing that he did not abandon his jacket by tossing it over his mother's fence and that its search therefore violated his rights under the Fourth Amendment

Analysis:

The court held that Defendant did not abandon his jacket by merely tossing it over his mother's fence as he did not thereby manifest an intent to discard it. "(W)e do not think it can fairly be said that Ramirez manifested an intent to disclaim ownership in his jacket simply by placing it on the private side of his mother's fenced-in property line. This would be a different case if Ramirez had dropped his jacket on the public sidewalk and ran away, or if he had insisted before the search that the jacket did not belong to him. It would also be a different case if the evidence demonstrated that Ramirez was not permitted to leave his possessions on his mother's property. But the Government has not offered any evidence to that effect. To the contrary, the evidence offered at the suppression hearing overwhelmingly showed that Ramirez was welcome on the property."

Finally, the Government relied exclusively on abandonment theory and therefor expressly waived any alternative grounds for the search. Argument regarding trespass theory (Jones) or reasonable expectation of privacy theory (Katz) was not presented and therefore not weighed. As such, it cannot fairly be said that Ramirez manifested an intent to disclaim ownership in his jacket simply by placing it on the private side of his mother's fenced-in property line.

For the Court's Opinion: USA v. Ramirez, No. 22-50042 (5th Cir. 2023) :: Justia

Barnes v. Felix, No. 22-20519 (5th Cir. 2023)

In this case the United States Court of Appeals for the Fifth Circuit granted Officer Felix's motion for summary judgement (Qualified Immunity) in a 42 USC 1983 suit alleging an excessive use of force where a lawfully stopped vehicle began to move.

Factual Background:

Officer Roberto Felix, Jr. fatally shot Ashtian Barnes on April 28, 2016, following a lawful traffic stop. Officer Felix heard a radio broadcast from the Harris County Toll Road Authority giving the license plate number of a vehicle on the highway with outstanding toll violations. Spotting a vehicle with the matching plate, he initiated a traffic stop by engaging his emergency lights. Ashtian Barnes, the driver, pulled over onto the median. The officer

approached the driver's side window and asked Barnes for his driver's license and proof of insurance. Barnes replied that he did not have the documentation and that the car had been rented a week earlier in his girlfriend's name. During this interaction, Barnes was "digging around" in the car. Officer Felix warned Barnes to stop doing so and, claiming that he smelled marijuana, asked Barnes if he had anything in the vehicle Officer Felix should know about. In response, told Officer Felix that he "might" have the requested documentation in the trunk of the car.

At the direction of Officer Felix, Barnes released the car trunk and was told to get out of the car. However, with the door still open Barnes then began to drive away. Officer Felix partially entered the vehicle and ordered Barnes to stop. He ended up discharging his firearm twice, killing Barnes. The grand jury filed a "No Bill" regarding charges against Officer Felix and an internal review found no violation of department policy. Barnes' estate filed an action for depravation of rights under color of law, i.e. "excessive force".

Analysis:

The court affirmed the lower court's order holding that there is no genuine dispute of material fact as to constitutional injury. "As the district court explained, we may only ask whether Officer Felix was in danger '**at the moment of the threat**' that caused him to use deadly force against Barnes." It is well-established that the excessive-force inquiry is confined to whether the officer or other persons were in danger at the moment of the threat that resulted in the officers' use of deadly force. This "***moment of threat test"*** means that "the focus of the inquiry should be on the act that led the officer to discharge his weapon." Any of the officers' actions leading up to the shooting are not relevant for the purposes of an excessive force inquiry. The court determined that the moment of threat occurred in the two seconds before Barnes was shot. At that time, Officer Felix was still hanging onto the moving vehicle and believed it would run him over, which could have made him "reasonably believe his life was in imminent danger." The court also cited, Harmon v. City of Arlington as presenting a similar fact pattern, in which an officer was perched on the running board of a runaway vehicle when the officer shot the fleeing driver. Finding no constitutional violation, the opinion noted that the "brief interval—when the officer is clinging to the accelerating SUV and draws his pistol on the

driver—is what the court must consider to determine whether [the officer] reasonably believed he was at risk of serious physical harm." In the case at hand, Officer Felix was still hanging on to the moving vehicle when he shot Barnes. "

For the Court's Opinion: Barnes v. Felix, No. 22-20519 (5th Cir. 2024) :: Justia

Eight Circuit

United States v. Ralston, No. 22-3352 (8th Cir. 2023)

In this case the United States Court of Appeals for the Eight Circuit ruled that the "Leon Good Faith" exception did not apply to the execution of a search warrant of the residence of a suspect's neighbor.

Factual Background:

Appellant Ralston lived on family property that contained two residences bisected by a road. A mobile home was located on the north side of the road and a single-family residence sat on the south side. Law enforcement officers believed Colton Varty resided in the mobile home and Ralston resided in the single-family home. Investigators identified Varty as a suspect in multiple burglaries. After developing information indicating Varty could be storing stolen items on the property, law enforcement applied for a search warrant. The affidavit contained extensive information regarding Varty's alleged involvement in burglaries of unoccupied buildings and construction trailers. Further, the affidavit also outlined information leading law enforcement to "suspect and have probable cause to believe, Varty has committed multiple crimes of [this] nature in proximity to Ralston's residence." ***Based on this alone***, the warrant authorized the search of Ralston's residence in addition to the mobile home where Varty resided.

Following a search of his residence, Ralston was charged with being a prohibited person in possession of a firearm, in violation of 18 U.S.C. §§ 922(g) and 924(a)(2).

At issue is the validity of the search of Ralston's residence located on the south side of the property. Ralston contends the warrant did not demonstrate a

sufficient nexus between him and Varty to establish probable cause that evidence would be located inside his house.

Analysis:

The Supreme Court has held the exclusionary rule should not be applied to bar the admission of "evidence obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate," even if that search warrant is later determined to be invalid. United States v. Leon. In assessing whether an officer relied in good faith on the validity of a warrant, a reviewing court considers the totality of the circumstances, including any information known to the officer but not included in the affidavit. But, an officer's reliance on a search warrant is objectively ***unreasonable*** in four instances:

(1) when the affidavit or testimony in support of the warrant included a ***false statement*** made knowingly and intentionally or with reckless disregard for its truth, thus misleading the issuing judge;
(2) when the judge 'wholly ***abandoned his judicial role*** in issuing the warrant;
(3) when the affidavit in support of the warrant was 'so ***lacking in indicia of probable*** cause as to render official belief in its existence entirely unreasonable'; and
(4) when the warrant is 'so ***facially deficient'*** that the executing officer could not reasonably presume the warrant to be valid.

At issue is the third instance—that is, whether the supporting affidavit was so ***lacking in indicia of probable cause*** that no reasonable officer would have relied upon a warrant that was issued based on it.

The court concluded that the search of defendant's residence was ***not*** saved by the Leon Good Faith exception as no reasonable officer would believe that there was a fair probability that evidence of another man's burglaries would be found in the defendant's residence; the officers knew the men maintained separate residences on the property and they offered little more than a hunch that defendant's residence was being used to store property stolen by the other man. The court concluded that without evidence that Varty had access to Ralston's residence or facts pointing to a fair probability that Ralston's

residence contained stolen property or was being used to fence stolen property, the Leon Good Faith exception could not apply. The case was remanded to the district court with directions to grant his motion to suppress.

For the Court's Opinion: United States v. Ralston, No. 22-3352 (8th Cir. 2023) :: Justia

Ninth Circuit

United States v. Parkins, No. 22-50186 (9th Cir. 2024)

In this case the United States Court of Appeals for the Ninth Circuit ruled that a defendant must be physically present and expressly refuse consent to nullify a co-tenant's consent to a warrantless search. However, the court clarified that physical presence does not require the defendant to actually stand at the doorway, blocking entry — presence on the premises, including its immediate vicinity, is sufficient.

Factual Background:

Offers were investigating the use of a laser pointer aimed at aircraft in violation of 18 USC 39A. Based on information developed by use of a police helicopter thermal camera and other investigation, the police knocked at the defendant's apartment and Appellant Parkins's girlfriend answered the door. While waiting for Parkins, the officers noticed a sign by the front door indicating that the apartment's occupants owned firearms. Parkins soon appeared and stepped outside the apartment onto the landing. The officers asked him if he had any weapons, and he replied no. But, when the officers began to check him for weapons, Parkins resisted, tried to reenter the apartment, and asked if he was under arrest. Officer Smith grabbed Parkins and pulled him away from the door. Officer Smith confirmed that Parkins lacked any weapons and then escorted him downstairs to a nearby bench for "a chat." A third officer (Officer Jamison) arrived on the scene. When the officers and Parkins spoke at the bench, Parkins repeatedly denied owning a laser or pointing one at the helicopter. He asked if he could see his girlfriend or return to the apartment, but the officers told him that he was detained. When Parkins asked the same question roughly ten minutes later, the officers again told him that he was detained. At

Parkins's request, the officers moved him to a set of mailboxes bordering the parking lot roughly twenty feet from his apartment so he would be less exposed to his neighbors. From this position, Parkins was located down one flight of stairs and one short walkway from the entrance to his unit. While Officers Rivas and Jamison remained with Parkins, Officer Smith returned to the apartment and asked Parkins's girlfriend if the police could search for the laser pointer. She agreed, and Officer Smith left the apartment to obtain a written consent-to-search form from his car. At this point, Parkins yelled to her, "Don't let the cops in, and don't talk to them." Both Officer Smith and Parkins's girlfriend heard Parkins —the body camera shows both turning their heads toward Parkins's voice. About a minute later, Parkins yelled, "Don't talk to them, talk to them outside." He then followed up with, "Don't tell them anything." Officer Smith returned downstairs and ordered Parkins removed from the mailbox area in handcuffs and placed in a squad car because he was "running [his] mouth" and "obstruct[ing]" the investigation. Up to this point, Parkins had been detained outside for roughly twenty minutes.

Analysis:

The court conducted a two-part analysis. First, was the defendant sufficiently "present," and secondly, did he sufficiently "object?"

Physical presence is not limited to the doorway, but merely requires presence on the premises to be searched. As a result, there may be cases in which the outer boundary of the premises is disputed. Using several court precedents, "the Court… clarified that the requirement of physical presence is not restricted to presence at 'the threshold' of the residence." Further the "immediate vicinity" is not limited to the doorway or even the property lines. Instead, courts should examine the entire context, "including the lawful limits of the premises, whether the occupant was within the line of sight of his dwelling, the ease of reentry from the occupant's location, and other relevant factors." Earlier cases have held that a defendant could object from "the threshold of the premises, elsewhere on the premises, or near the premises." Even areas not within the "lawful limits of the premises" can be within the immediate vicinity for Fourth Amendment purposes.

In the case at hand, it was clear that Parkins was well within the immediate vicinity of his apartment when he objected to the officers' presence at his apartment. Parkins objected while located down one flight of stairs and one short walkway from the entrance to his unit. He was roughly twenty feet from the front window and balcony of his unit. Parkins was both within the line of sight of his apartment and close enough to have made an easy entry had the officers allowed him to return.

Satisfied that Parkins was physically present, the court turned to whether he expressly refused consent. It was clear that he did. A defendant's objection must be express. But, both words and actions can constitute an express refusal to grant the police entry. Parkins's statement "Don't let the cops in", which all the officers heard, was sufficiently clear to convey his objection to allowing the police to enter his apartment. A reasonable person would have understood Parkins's intent to keep the inside of his home private.

For the Court's Opinion: USA V. PARKINS, No. 22-50186 (9th Cir. 2024) :: Justia

Tenth Circuit

United States v. Ramos, No. 23-6071 (10th Cir. 2023)

In this case the United States Court of Appeals for the Tenth Circuit ruled that impounding a vehicle from a private property without a reasonable, non-pretextual community-caretaking rationale violates the Fourth Amendment. The defendant, Isaac Ramos, was arrested after an altercation at a convenience store. His truck was impounded from the store's parking lot, and a subsequent inventory search revealed a machine gun and ammunition. Ramos was charged with unlawful possession of a machine gun and being a felon illegally in possession of ammunition. He moved to suppress the evidence, arguing that the impoundment of his truck violated the Fourth Amendment.

The Tenth Circuit reversed the lower court's decision, and found that the impoundment was not supported by a reasonable, non-pretextual community-caretaking rationale. The court considered the five "Sanders factors:"

1- Whether the vehicle was on public or private property; if on private property,

2- Whether the property owner had been consulted;
3- Whether an alternative to impoundment existed;
4- Whether the vehicle was implicated in a crime; and
5- Whether the vehicle's owner and/or driver had consented to the impoundment.

The court found that all these factors weighed against the reasonableness of the impoundment, and thus, it violated the Fourth Amendment. Citing United States v. Sanders, 796 F.3d 1241, 1243 (10th Cir. 2015) (holding that to be valid under the community-caretaking doctrine, an impoundment must be both consistent with standardized policy ***and*** supported by a valid community-caretaking rationale), the court remanded the case to the district court with instructions to grant Ramos's suppression motion.

Factual Background: The defendant and another individual were engaged in a fistfight in the parking lot of a convenience store. As the responding officer broke up the fight, Ramos struck the officer, and was arrested for assault. The defendant's vehicle (a tow truck) was in the same parking lot, but actually owned by his mother.

Analysis: To be reasonable, a search generally requires the obtaining of a judicial warrant. In the absence of a warrant, a search is reasonable only if it falls within a specific exception to the warrant requirement. One such exception, and the only exception at issue is this case, is a search conducted pursuant to a police officer's community-caretaking function. This exception allows law enforcement to impound an automobile and, in connection with the impoundment, inventory the vehicle's contents. Sanders. Such an impoundment, however, must be based on "something other than suspicion of evidence of criminal activity," such as "protecting public safety and promoting the efficient movement of traffic;" see also United States v. Chavez, 985 F.3d 1234, 1243 (10th Cir. 2021) (holding that "public safety lies at the heart" of the community-caretaking doctrine). That is, a community-caretaking impoundment cannot be based on a suspicion or hope evidence of criminal activity will be found in the vehicle. The government has the burden of proving a vehicle impoundment satisfies the Fourth Amendment. The community-caretaking exception to the Fourth Amendment's warrant requirement operates differently depending on the nature of the property

from which the vehicle is impounded. When the vehicle is located on public property, specifically including streets, roads, and ways, officers have far greater authority to impound. When, on the other hand, police impound a car located on private property, and that car is neither "obstructing traffic or creating an imminent threat to public safety," a community-caretaking rationale "is less likely to exist."

The court expressed concern about each of the five Sanders Factors, but particularly focused on Alternatives to Impoundment. With these facts, it was very feasible to have called the actual owner to come down and move the vehicle.

For the Court's Opinion: United States v. Ramos, No. 23-6071 (10th Cir. 2023) :: Justia

United States v. Dawson, No:22-8064 (10th Cir. 2024)

In this case, the United States Court of Appeals for the Tenth Circuit addressed whether an officer violates the Fourth Amendment when he checks a rental agreement to determine if the driver is authorized to drive the vehicle or whether it is an ordinary inquiry incident to a traffic stop. The court, in this case, found that this inquiry was part of an officer's mission during a traffic stop and does not constitute an "unrelated investigation." Therefore, the officer was justified in continuing to detain Dawson to determine whether he was authorized to drive the rental car.

Factual Background: Wyoming Highway Patrol Trooper Harley Kalb pulled Defendant Jerry Dawson over for speeding in a rental car. After issuing a speeding citation but before Defendant produced his rental agreement, Trooper Kalb discovered marijuana in plain view, searched Defendant's rental car, and seized two pounds of methamphetamine.

Analysis: The court considered whether the Fourth Amendment permits an officer to prolong an otherwise completed traffic stop of a rental vehicle, absent reasonable suspicion, to determine whether the driver is authorized to drive the rental vehicle at the time of the stop.

The Appellant asserted that Trooper Kalb had no authority to detain him after issuing his speeding citation, and therefore the district court should have suppressed the methamphetamine discovered afterward.

The decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred. Further, a traffic stop must be justified at its inception and, in general, the officer's actions during the stop must be reasonably related in scope to 'the mission of the stop itself.' That is, authority for the seizure ends when tasks tied to the traffic infraction are—or reasonably should have been—completed. An officer's mission during a traffic stop includes addressing the traffic violation that warranted the stop and "ordinary inquiries incident to the traffic stop, such as checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance." Taken together, a lawfully initiated traffic stop becomes unreasonable "when an officer (1) diverts from the traffic-based mission of the stop to investigate ordinary criminal conduct, (2) in a way that 'prolongs' (i.e., adds time to) the stop, and (3) the investigative detour is unsupported by any independent reasonable suspicion." Thus, the question is whether Trooper Kalb's departed from his traffic-based mission by extending the stop to wait for Defendant's rental agreement.

The Court held that Trooper Kalb did not divert from the traffic-based mission of the stop by detaining Defendant for the purpose of determining whether he was authorized to drive his car by rental agreement. Checking a rental agreement is an "ordinary inquiry incident to the traffic stop" akin to inspecting a privately-owned vehicle's registration. The Supreme Court has noted registration requirements are "essential elements" of state roadway safety programs that, in conjunction with licensing requirements, ensure only those qualified to do so are permitted to operate motor vehicles. A rental agreement check is likewise closely tied to traffic enforcement and is properly characterized as part of an officer's "traffic mission" when he conducts a stop on a rental vehicle. It follows that a rental agreement check is not the kind of "unrelated investigation" that offends the Fourth Amendment when conducted in a way that lengthens the stop. Thus, Trooper Kalb was justified in continuing to detain Defendant to

determine whether he was authorized to drive the rental car because that inquiry was part of his mission during the traffic stop.

For the Court's Opinion: United States v. Dawson, No. 22-8064 (10th Cir. 2024) :: Justia