

Fourth Amendment

Developments and Practice

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Motion Practice

Timing of Motions:

Rules 12 and 47 of the Federal Rules of Criminal Procedure apply.

Rule 47 states that the motion “must be in writing” and “must state the grounds on which it is based, and the relief or order sought.”

Rule 12(b)(3)(C) – a motion to suppress evidence must be made before trial if the basis for the motion is reasonably available.

Burden of Proof

1. It is well established that the burdens of production and persuasion generally rest upon the movant in a suppression hearing. Rogers v. U.S., 330 F.2d 535 (5th Cir. 1964).
2. If a defendant shows that a **confession** was obtained while he was **under custodial interrogation**, the government then has the burden of proving that the defendant voluntarily waived his privilege against self-incrimination. U.S. v. Crocker, 510 F. 2d 1129 (10th Cir. 1975).
3. Similarly, if a defendant seeks to suppress evidence as the **fruit of an illegal wiretap** and he proves that the tap was in fact unlawful, the burden shifts to the prosecution to prove that the evidence in question was obtained from another source and not tainted by the illegal surveillance. Alderman v. U.S., 394 U.S. 165 (1969).
4. The prosecution bears the burden of showing the reasonableness of a warrantless search or seizure. U.S. v. Chavis, 48 F.3d 871 (5th Cir. 1995).

Putting the Client on the Stand

F.R.E. 104(d) – Cross Examining a Defendant in a Criminal Case.

“By testifying on a preliminary question, a defendant in a criminal case does not become subject to cross-examination on other issues in the case.”

Note: “The limitation upon cross-examination is designed to encourage participation by the accused in the determination of preliminary matters. He may testify concerning them without exposing himself to cross-examination generally. The provision is necessary because of the breadth of cross-examination under Rule 611(b).”

Rule 611(b) – “Cross-examination should not go beyond the subject matter of the direct examination and matters affecting the witness’s credibility. The court may allow inquiry into additional matters as if on direct examination.”

Simmons v. U.S., 390 U.S. 377 (1968)

“Thus, in this case Garrett was obliged either to give up what he believed, with advice of counsel, to be a valid Fourth Amendment claim or, in legal effect, to waive his Fifth Amendment privilege against self-incrimination. In these circumstances, **we find it intolerable that one constitutional right should have to be surrendered in order to assert another.** We therefore hold that when a defendant testifies in support of a motion to suppress evidence on Fourth Amendment grounds, **his testimony may not thereafter be admitted against him at trial on the issue of guilt unless he makes no objection.**”

Simmons v. United States, 390 U.S. 377, 394, 88 S. Ct. 967, 976, 19 L. Ed. 2d 1247 (1968)

U.S. v Gomez-Diaz, 712 F.2d 949 (5th Cir. 1983)

Gomez-Diaz sought to take the stand during the suppression hearing to answer the single question of whether he verbally agreed to the x-ray. He maintains that he would have answered no. The magistrate, however, stated that if Gomez-Diaz took the stand, he would be open to cross-examination on any matter that occurred during his detention by customs officials **which related to the issue of consent.**

Given that ruling, Gomez-Diaz chose not to testify. The magistrate correctly interpreted Rule 104(d) to permit full cross-examination on the **“preliminary matter” of consent** if Gomez-Diaz chose to take the stand on that matter at the suppression hearing.

Practice Point

Testimony from a suppression hearing is inadmissible at trial on the issue of guilt, and there are times when testimony is required from a defendant in order to carry the burden of proof. For example, showing a reasonable expectation of privacy since it depends on a defendant's subjective intent and the actions that manifest that intent.

Some courts will require that a sworn affidavit be attached to a motion to suppress, or will allow an offer of proof, in order for a defendant's burden to be met.

During a suppression hearing, a defendant can be subject to cross examination on any issue bearing upon the claimed constitutional violation. A court can allow inquiries into credibility, nervousness, apprehension, criminal history, etc., during a suppression hearing. Also, prior inconsistent suppression hearing testimony may properly be used to impeach a defendant during trial.

CONDITIONAL PLEA

“With the consent of the court and the government, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right to have an appellate court review an adverse determination of a specified pretrial motion. A defendant who prevails on appeal may then withdraw the plea.” F.R.Crim.P. 11(a)(2).

Practice Point

Renew your motion to suppress if testimony during trial results in new evidence favorable to the motion. This applies to inconsistent testimony from witnesses, and to evidence supporting the motion to suppress based on a different legal theory.

Example – a woman exams someone else's purse, then hands it to the police while advising there are papers inside that are important evidence. In a motion to suppress, defense counsel argues she is ostensibly a government agent. Motion denied, but at trial, the woman claims she **never** examined the contents of the purse, opening the door for a claim of a warrantless search by the police. Motion to suppress not renewed at trial and new legal basis not raised before the district court – motion denied. U.S. v. Humphrey, 208 F.3d 1190 (10th Cir. 2000).

Tactical Point

Questioning witnesses at an evidentiary hearing can also uncover damaging testimony in advance of trial and lock in helpful testimony. Law enforcement has different incentives during suppression hearings and trials. Examples include cases involving the consent to search and the voluntariness of a statement.

The incentive during a suppression hearing is to emphasize the defendant's cooperativeness to show there was no pressure or coercion, while at trial the incentive might be to characterize the defendant as evasive, nervous, or uncooperative to suggest a guilty conscience.

Other advantages of pretrial hearings is the opportunity to assess a witness's demeanor, and to develop facts to support a motion *in limine*.

5th Circuit

4th Amendment Cases

U.S. v. Beltran

650 Fed.Appx. 206 (2016)

Traffic stop for speeding. Trooper asked Beltran whether he would answer additional questions, and Beltran agreed.

Beltran's attorney challenged whether reasonable suspicion of drug trafficking existed, which would permit continued detention.

“Because the unchallenged finding of consent to continue the encounter was not clearly erroneous, we do not need to reach the question of reasonable suspicion.”

U.S. v. Holley

831 F.3d 322 (5th Cir. 2016)

A confidential informant advises investigators that Mr. Holley is distributing marijuana. Officers look at records to determine that Holley is associated with a house at 6203 Gray Wolf Trail. A different officer goes to the house on two occasions with a canine to “conduct a free-air sniff of the garage door.” The dog alerts both times. Officers obtain a warrant and find cash, marijuana, and guns.

Officers find utility bill and investigate a house on Winterwood Lane. Officers again send a canine unit to conduct a “free-air sniff.” The dog alerts and they obtain a warrant. They find 263 marijuana plants.

Holley argues that the dog sniffs violated the Fourth Amendment under *Florida v. Jardines*, and the second search is fruit of the poisonous tree. Prosecutors argue the “good faith exception” under *Leon*.

U.S. v. Holley

831 F.3d 322 (5th Cir. 2016)

Holly argues that *Leon* is not applicable because the warrants were based on unconstitutional and warrantless dog sniff searches.

The Fifth Circuit holds that the good faith exception applies because the dog sniff occurred prior to the Supreme Court ruling in *Florida v. Jardines*, making it “close enough to the line of validity” for an objectively reasonable officer preparing an affidavit for a search warrant.

Despite Supreme Court rulings in *Florida v. Jardines*, and *Kyllo v. United States*, the Fifth Circuit notes that “even now, it is unclear whether a dog sniff of a garage door is unconstitutional,” since there are prior Fifth Circuit cases holding that a driveway is not part of the home’s curtilage and a dog is not the type of “sense-enhancing” tool discussed in *Kyllo*.

U.S. v. Holley

THE DISSENT

Judge Graves – he notes that the majority’s conclusion that the driveway is not part of the home curtilage came from an unpublished opinion containing no factual analysis and it is not binding authority.

Also, while the majority states that Holley did not point to a single pre-*Jardines* decision that invalidated a search factually similar, Judge Graves notes that the prosecution could not point to a single binding decision in which a similar search was deemed valid.

In response to the majority stating that a dog is not a “sense-enhancing tool” like the thermal imaging device in *Kyllo*, he also notes that Justice Kagan has opined that drug detection dogs are highly trained and a specialized device for discovering objects not in plain view or plain smell.

The prosecution contends that the driveway was open to the public, but Judge Graves notes that the garage door was closed. It served as an entrance to the home.

U.S. v. Johnson

2016 WL 3913427 (5th Cir. 2016)

Question - if officers obtain a search warrant for your residence, does that mean that “reasonable suspicion” exists to stop a car where you are riding inside as a passenger?

An informant made two controlled purchases of methamphetamine inside Johnson’s home. Police obtained a search warrant.

Police conduct surveillance the morning of the search. Before all officers arrive, Johnson leaves as a passenger in a friend’s truck. An officer in an unmarked car claims he observed two traffic violations. He called on a marked unit to pull them over. The driver denies permission to search. A canine is used and alerts to the presence of drugs.

The majority states that the stop was based on traffic violations **and** reasonable suspicion of drug activity based upon the confidential informant’s prior purchases. **Therefore, the dog sniff was reasonably related to the cause of the stop.”**

U.S. v. Johnson

THE DISSENT

Judge Graves – Johnson did not challenge the legality of the stop, but contends that officers did not have reasonable suspicion to extend the stop beyond the time necessary to perform computer checks of the driver's and passenger's backgrounds.

An officer testified that the basis of the stop was two traffic violations observed by different officer. After computer checks showed no warrants or issues meriting prolonging the stop, it should have ended. The majority nonetheless concludes there was reasonable suspicion because the officers were aware of an affidavit seeking a search warrant of Johnson's home.

Since the sole basis of the stop was minor traffic violations and no reasonable suspicion was developed during the stop, the use of a drug dog exceeded their authority. There was no reasonable suspicion.

Traffic Stops

“[A] detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop, unless further reasonable suspicion, supported by articulable facts, emerges.” *U.S. v. Brigham*, 382 F.3d 500, 507 (5th Cir. 2004). However, after “a valid traffic stop, an officer can request a driver's license, insurance papers, vehicle registration, run a computer check thereon, and issue a citation,” and the detention is justified by the facts supporting the stop until computer checks are received. *U.S. v. Shabazz*, 993 F.2d 431, 437 (5th Cir. 1993).

It is permissible to require passengers to identify themselves and to run computer checks on passengers. *See Pack*, 612 F.3d at 351. While waiting for the results of computer checks, the police can question the subjects of a traffic stop even on issues unrelated to the purpose of the stop. *See Shabazz*, 993 F.2d at 436–37.

“[O]nce all relevant computer checks have come back clean, there is no more reasonable suspicion, and, as a general matter, continued questioning thereafter unconstitutionally prolongs the detention.” *U.S. v. Lopez–Moreno*, 420 F.3d 420, 431 (5th Cir. 2005).

U.S. v. Toussaint

838 F.3d 503 (5th Cir. 2016)

Listening on a wiretap, an FBI agent overhears the suspected leader of a gang giving permission to kill a person named “Tye” or “Todd” in the Kennedy Heights neighborhood who drives a silver Infiniti coupe. The agent contacts the Sheriff’s office, and they begin searching for similar cars. 45 minutes later, they pulled over a silver Infiniti for “speeding,” but did not use radar in gauging the speed (pacing it instead).

“Tosh” Toussaint was the driver. **“The officer told him to exit the vehicle holding his license, registration, and insurance information.”** Toussaint fled quickly on foot. Officers chased him down, gave *Miranda* warnings, and found a 9 mm pistol and bags of crack cocaine. Only at the Sheriff’s Office was he informed of the potential threat on his life.

The district court suppressed the evidence, finding that there were no exigent circumstances **and** no objective basis for finding that the car was speeding.

U.S. v. Toussaint

838 F.3d 503 (5th Cir. 2016)

The Fifth Circuit reversed, stating that officers can justify the stop of a vehicle under the exigent circumstances exception.

This is the first case where an exigent circumstances exception has been applied to an automobile by any Federal Court of Appeals. The court stated that one recognized exigent circumstance is “the need to assist persons who are seriously injured or threatened with such injury.”

The District Court had issues with officers conferring with one another before combing the neighborhood, and the decision to pace the car instead of pulling it over immediately. (Note: the prosecution did not appeal the finding that “there was no objectively reasonable basis to find that Toussaint was speeding.” Regardless, the Fifth Circuit gave it merit and did not find it to be waived.)

U.S. v. Toussaint

838 F.3d 503 (5th Cir. 2016)

Note: the prosecution did not appeal the finding by the district court that “there was no objectively reasonable basis to find that Toussaint was speeding.”

Remember the Traffic Stop slide?

However, after “a valid traffic stop, an officer can request a driver's license, insurance papers, vehicle registration, run a computer check thereon, and issue a citation,” and the detention is justified by the facts supporting the stop until computer checks are received. *U.S. v. Shabazz*, 993 F.2d 431, 437 (5th Cir. 1993).

(We do not search the record for unassigned error, and **contentions not raised on appeal are deemed waived.** *U.S. v. Johnson*, 718 F.2d 1317, 1325 n. 23 (5th Cir.1983))

U.S. v. Turner

839 F.3d 429 (5th Cir. 2016)

Issue – whether a law enforcement officer’s scanning of the magnetic strip on the back of the gift card is a search within the meaning of the Fourth Amendment.

Held – it is not.

Turner is a passenger in a car pulled over for not having a visible tag. The officer learns that Turner has an outstanding warrant for possession of marijuana. The officer observes an opaque plastic bag partially sticking out from under the seat. The officer asked the driver what was inside the bag. The driver states “we” purchased the cards from an individual who sells them to make money. There were 143 gift cards.

U.S. v. Turner

839 F.3d 429 (5th Cir. 2016)

Without obtaining a search warrant, the officer swiped the gift cards with his in-car computer. He could not make use of the information, and turn them over to the Secret Service. An investigation revealed that at least 43 were altered, meaning the numbers encoded in the card did not match the numbers printed on the card. Stores were contacted and the agents obtained photos of the driver and Turner purchasing gift cards.

Turner moved to suppress the search. The prosecution responded that the driver provided consent for the seizure of the cards, and the later examination did not constitute a search. Turner entered a conditional plea.

U.S. v. Turner

839 F.3d 429 (5th Cir. 2016)

Turner agreed that the driver allowed the officer to look inside the bag, but does not agree that the driver consented to the officer taking permanent possession of the gift cards. The Fifth Circuit did not address this issue, “because we find another lawful basis for the seizure of the gift cards.”

The Fifth Circuit agrees that either a warrant or some other justification is required. One such justification is “plain view” seizures. For that to be lawful, the incriminating nature of the item must be “immediately apparent.” There must be a “practical, non-technical” probability that incriminating evidence is involved.

Turner notes that a finding of probable cause is at odds with the officer’s view during the stop that there was insufficient evidence to arrest the driver for a gift card crime (so not immediately apparent).

U.S. v. Turner

839 F.3d 429 (5th Cir. 2016)

The Fifth Circuit responds that “existence of probable cause is an objective one that does not turn on the subjective beliefs of an officer.” Accordingly, the seizure was lawful.

Even when evidence is seized, such as a suitcase, a warrant is necessary because of the privacy interests in the contents. Such a privacy interest exist in the electronic contents of computers and cell phones. (Riley v. California). However, technology can reveal information not visible to the naked eye. For example, a special light can be used to detect ultraviolet ink on currency. So what about information encoded in the magnetic stripe on the back of gift cards?

The Fifth Circuit holds that gift cards contain limited information, unlike a computer or cell phone. Gift cards would necessarily have to be swiped by cashiers, so the information is intended to be read.

U.S. v. Beene

818 F.3d 157 (5th Cir. 2016)

An unnamed caller reports Mr. Beene pointed the gun at people and then left the scene driving a gray Honda. Officers knew Beene to have dealt illegal drugs in the past.

As officers approached the residence they saw Beene driving the gray Honda. Before they activated sirens to stop him, he turned into his driveway and parked. He was about 5 feet away from the street. Beene got out of the vehicle and approached the officers, who ordered him to stop. He did not until they pulled out a Taser. They handcuffed him. Officers believe they have probable cause to arrest being based on the report and “what he had done in the past.”

Beene’s wife came around the corner and was told to stop. She said she owned the gray Honda.

U.S. v. Beene

818 F.3d 157 (5th Cir. 2016)

Officers asked the wife whether she knew if there was a gun in the vehicle. She did not. Officers asked if she minded if they checked the car. She asked whether they had a warrant.

Another officer arrived with the drug sniffing dog and did a search around the Honda. The dog alerted. Officers believed they had probable cause, searched the vehicle, found marijuana, crack cocaine, cash, and a loaded handgun.

Beene's wife passed out. EMTs were called, but she revived without their assistance and refused treatment. An officer testified that after she recovered, he obtained a written consent to search the residence. Additional drugs were found inside.

U.S. v. Beene

818 F.3d 157 (5th Cir. 2016)

The wife was arrested for resisting the officers orders (the opinion does not state what these orders were). Beene provided a recorded confession at the station, admitting he possessed the gun.

The district court found the evidence from the car admissible because it was the result of a search incident to a lawful traffic stop. However, the court suppressed the evidence of drugs seized from the residence, noting that two versions of the consent form were produced, one contained an officer signature as a witness to the wife's consent, and the other did not. The court found the officers testimony regarding consent not to be credible.

U.S. v. Beene

818 F.3d 157 (5th Cir. 2016)

The Fifth Circuit reversed, stating that the crime of arrest was “resisting arrest.” The vehicle would not contain any evidence of that crime. Beene argued that the search of the vehicle was not conducted pursuant to a lawful traffic stop, did not fall within an applicable exception, and occurred in his driveway, which allegedly was part of the curtilage of his home.

“A dog sniff is typically not a search; it may be conducted that even when a detention is not drug related so long as it does not unreasonably prolong the detention. A sniff may nevertheless an unwarranted search when it intrudes into a constitutionally protected area, such as a home or its curtilage.”

U.S. v. Beene

818 F.3d 157 (5th Cir. 2016)

In determining if an area is part of the curtilage, the court considers:

- 1) The proximity of the area claimed to be curtilage to the home;
- 2) whether the area is included within an enclosure surrounding that home;
- 3) the nature of the uses to which the area is put, and
- 4) the steps taken by the resident to protect the area from observation by people passing by.

The district court found that only the driveway's proximity to the residence weighs in favor of a finding that it was part of the curtilage.

U.S. v. Beene

818 F.3d 157 (5th Cir. 2016)

The Fifth Circuit reaffirmed the prior unpublished opinion we discussed earlier holding that a similar driveway was not part of the curtilage of a defendant's home. Therefore, the police were permitted to bring a dog onto his property to sniff the vehicle. The court considered the driveway to be part of the "open fields" exception.

While the use of the dog was upheld, when a vehicle is parked in a defendant's residential driveway, the court generally requires exigent circumstances in order to justify a warrantless search. Reversed and remanded.

The court also held that the post-arrest statements are contingent on the lawfulness of the warrantless search of the vehicle.

U.S. v. Beene

Judge Graves dissents based upon the majority deeming a dog sniff not to be a search. He notes that investigations taking place upon private property are more intrusive, and more likely to implicate the Fourth Amendment.

“A search or seizure carried out on the suspect’s premises without a warrant is *per se* unreasonable, unless the police can show it falls within one of a carefully defined set of exceptions.” He addresses dog sniffs when vehicles are found in a public location, as with traffic violations, as opposed to being on a suspect’s premises.

He addresses a 2013 unpublished opinion contending that “a sniff is not a search” no matter what the circumstance, and responds that use of a canine must consider the nature of the privacy interest and the intrusion caused by the investigative activity. He concludes that Beene possessed a reasonable expectation of privacy because of his possessory interest in the land and his right to exclude others.

U.S. v. Castro

647 Fed.Appx. 388 (5th Cir. 2016)

A deputy sheriff is driving home after his shift Is flagged down by a man he recognizes, who tells him a vehicle is going to be loaded with marijuana and he can show the deputy the location. He gets in the deputy's car and they drive past a small church parking lot where an 18-wheeler is located with three men standing outside.

The deputy calls for backup and tells the other officer “to find probable cause to pull over the vehicle.” That officer follows the vehicle for approximately 3 miles, and pulls it over claiming there was dirt on the taillights and one brake light on the driver's side did not appear to illuminate properly.

He eventually obtained consent to search and found marijuana.

U.S. v. Castro

647 Fed.Appx. 388 (5th Cir. 2016)

The court notes that the informant's tip provided "reasonable suspicion," and the traffic stop was valid.

Though the deputy was unaware of the informant's criminal history, had never received information from the man before, and did not question how the informant obtained the information, the court deemed him reliable since the officer said he recognized and trusted the informant, the two were from the same area, and the deputy had known him "for a while." The information in the tip was specific and readily verified since the man took the deputy to the vehicle's location. Plus, the tip was not stale.

The defendants argued that after their records check came back clean there was no basis for extending the stop. The court found that reasonable suspicion existed.

U.S. v. Spears

636 F.3d 893 (5th Cir. 2016)

Officers stopped Spears as he was driving away from a house under surveillance for drug activity. He was detained for almost 40 minutes while officers attempted to obtain a drug sniffing dog, and his vehicle was subsequently searched. He did not give consent, and said he was coming home from visiting a relative.

Officers could not find a drug sniffing dog. They stated one reason they wanted to use a dog was to get probable cause to search Spears's vehicle. A different vehicle which had left the same house had also been stopped, and the officers found vacuum-sealed cash. Officers then decided they had probable cause to search Spears's SUV.

They found a handgun, \$59,800 in cash, in a laundry bag that smelled like marijuana.

U.S. v. Spears

636 F.3d 893 (5th Cir. 2016)

Officers searched his cell phone and found a picture of marijuana and stacks of money. Spears allegedly admitted purchasing marijuana and placing a cash deposit for more that same day.

The district court denied the motion to suppress. Three officers testified, and Spears introduced evidence that included a patrol car's video. The court found probable cause and sentenced Spears to 420 months' imprisonment.

Reasonable Suspicion – specific and articulable facts, taken together with rational inferences, that reasonably warrant a seizure. A hunch is insufficient to justify a stop. The court must consider the totality of the circumstances, and the collective knowledge and experience of the officers.

U.S. v. Spears

636 F.3d 893 (5th Cir. 2016)

For traffic stop to be justified at its inception, an officer must have an objectively reasonable suspicion that some sort of illegal activity, such as traffic violation, occurred. Even if there is no traffic violation, an officer may stop a vehicle for investigatory purposes if there is reasonable suspicion of criminal activity.

A police officer testified that a DEA agent communicated to him that he observed Spears change lanes without signaling. A DEA agent testified that his colleague observed Spears commit a traffic violation. The court found the stop was justified based on this testimony.

Next, officers testified that Spears visited a house where a suspected drug dealer lived. He had out-of-state license plates, and had stayed at the house only 10 to 20 minutes.

U.S. v. Spears

636 F.3d 893 (5th Cir. 2016)

The Fifth Circuit drew an analogy between visiting a house linked to drug activity with being in a high crime area. While it is relevant, standing alone, it is not enough to support reasonable suspicion. Plus, the officers did not see Spears take any action besides parking in the driveway. They never saw him leave his vehicle. Accordingly, the court found that the totality of the circumstances at the time of the stop did not create a reasonable suspicion of criminal activity. Therefore, the officer's subsequent search must be reasonably related in scope to the traffic violation.

A stop justified by only a traffic violation becomes unlawful if it is prolonged beyond the time reasonably required to complete the mission of issuing a ticket and attending to related safety concerns.

U.S. v. Spears

636 F.3d 893 (5th Cir. 2016)

The time recently required includes the time to inspect the drivers license, automobile registration, proof of insurance, ask about the purpose and itinerary of the trip, and run computer checks for outstanding warrants. A dog sniff is not part of the mission of issuing a traffic ticket.

Evidence suppressed. Conviction and sentence vacated.

U.S. v. Weast

811 F.3d 743 (5th Cir. 2016)

Child Pornography decision:

The Fifth Circuit joins other Courts of Appeals in determining that IP addresses and file sharing through peer-to-peer networks are not protected by a Fourth Amendment privacy expectation because they are voluntarily conveyed to third parties.

Utah v. Strieff

136 S.Ct. 2056 (2016)

Based on an anonymous tip regarding drug activity, an officer is surveilling a house. He sees a number of people making brief visits to the house over the course of a week and is suspicious that drugs are being dealt from the house. The officer sees Mr. Strieff leave the residence. He detains him in a nearby parking lot and asked what he was doing. He relays Strieff's identification to a dispatcher, who advises that Strieff has an outstanding arrest warrant for traffic violation.

The officer arrests Strieff, searches him, and finds methamphetamine and paraphernalia.

Under the "attenuation doctrine" evidence is admissible when the connection between the unconstitutional police conduct and the evidence is sufficiently remote or has been interrupted by some intervening circumstance.

Utah v. Strieff

136 S.Ct. 2056 (2016)

The dissent (Sotomayor) notes that the discovery of a warrant for an unpaid parking ticket will forgive a police officer's violation of your Fourth Amendment rights.

“This case allows the police to stop you on the street, demand your identification, and check it for outstanding traffic warrants - even if you are doing nothing wrong. If the officer discovers a warrant for find you forgot to pay, the courts will not excuse his illegal stop and will admit into evidence anything he happens to find by searching you after arresting you on the warrant.”

Note: The Utah Supreme Court unanimously voted to exclude the evidence.



THANK YOU FOR ATTENDING

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