Supreme Court Police & Corrections Cases 2014-2015

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The State and Local Legal Center (SLLC) files Supreme Court amicus curiae *briefs on behalf of the Big Seven national organizations representing state and local governments.*

*Indicates a case where the SLLC filed an *amicus* brief.

In *City of Los Angeles v. Patel** the Court held 5-4 that a Los Angeles ordinance requiring hotel and motel operators to make their guest registries available to police without at least a subpoena violates the Fourth Amendment. The searches permitted by the ordinance are "administrative"—that is, they are done to ensure compliance with recordkeeping requirements. While administrative searches do not require warrants, they do require "precompliance review before a neutral decisionmaker." Absent this, "the ordinance creates an intolerable risk that searches authorized by it will exceed statutory limits, or be used as a pretext to harass hotel operators and their guests." Facial challenges—to a statute itself rather than a particular application of a statute—aren't "categorically barred or especially disfavored." On numerous occasions the Court has declared statutes facially invalid under the Fourth Amendment.

In *Kingsley v. Hendrickson** the Court held 5-4 that to prove an excessive force claim a pretrial detainee must show that the officer's force was *objectively* unreasonable, rejecting the *subjectively* unreasonable standard that is more deferential to law enforcement. Pretrial detainee Michael Kingsley and the officers in this case agree that Kingsley refused to remove a piece of paper covering a light fixture and was forcibly removed from his jail cell so that officers could remove it. While the officers claim, and Kingsley disagrees, that Kingsley resisted their efforts to remove his handcuffs and in the process the officers slammed his head against the concrete bunk, the parties agree that Kingsley was tasered. The Court held that the objective standard applies to excessive force claims brought by pretrial detainees, relying partially on precedent. In a previous case involving prison conditions affecting pretrial detainees, *Bell v. Wolfish* (1979), the Court used an objective standard to evaluate a prison's practice of double bunking. And the Court pointed out that the objective standard applies to those who, like Kingsley, have been accused but not convicted of a crime, but who unlike Kingsley are free on bail.

In a 6-3 decision in *Rodriguez v. United States* the Court held that a dog sniff conducted after a completed traffic stop violates the Fourth Amendment. Officer Struble pulled over Dennys Rodriguez after he veered onto the shoulder of the highway and jerked back on the road. Seven or eight minutes passed between Officer Struble issuing a warning, back up arriving, and Officer Struble's drug-sniffing

dog alerting for drugs. The Court concluded that exceeding the time needed to handle the matter for which the traffic stop was made violated the Fourth Amendment. Justice Ginsburg, writing for the majority, relied on *Illinois v. Caballes* (2005) where the Court upheld a suspicionless dog search conducted *during* (not after) a lawful traffic stop. In that case the Court stated that a seizure for a traffic stop "become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission" of issuing a ticket for the violation.

In *Heien v. North Carolina* the Court held that a reasonable mistake of law can provide reasonable suspicion to uphold a traffic stop under the Fourth Amendment. A police officer pulled over a car that had only one working brake light because he believed that North Carolina law required both brake lights to work. The North Carolina Court of Appeals, interpreting a statute over a half a century old, concluded only one working brake light is required. The Court has long held that reasonable mistakes of *fact* do not undermine Fourth Amendment searches and seizures. Justice Roberts reasoned in this 8-1 decision: "Whether the facts turn out to be not what was thought, or the law turns out to be not what was thought, the result is the same: the facts are outside the scope of the law. There is no reason, under the text of the Fourth Amendment or our precedents, why this same result should be acceptable when reached by way of a reasonable mistake of fact, but not when reached by way of a similarly reasonable mistake of law."

The Court held unanimously in *Holt v. Hobbs* that an inmate's rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA) were violated when he was not allowed to grow a half inch beard in accordance with his religious beliefs. RLUIPA states that the government may not substantially burden the free exercise of an institutionalized person unless the burden is the least restrictive means of furthering a compelling government interest. While the Court agreed that preventing the flow of contraband in it prisons and preventing prisoners from disguising their identities are compelling state interests, disallowing half inch beards isn't the least restrictive means of furthering prison safety and security. The Department's concern that prisoners may hide contraband in their beards was "hard to take seriously." Only small items could be concealed, inmates could more easily conceal items in head hair, and beards can be searched. Photographing an inmate with and without a beard would solve the problem of an inmate changing his appearance to enter restricted areas, escape, or evade apprehension upon escaping. And the fact that the Department allows inmates to grow mustaches, head hair, and quarter inch beards for medical reasons, all of which could be shaved off at a "moment's notice," indicate security concerns raised by quickly changing appearance are not "serious."

In a 6-2 decision in *City and County of San Francisco v. Sheehan** the Court declined to decide whether Title II of the Americans with Disabilities Act (ADA) requires police officers to accommodate suspects who are armed, violent, and mentally ill when bringing them into custody. When police officers entered Teresa Sheehan's room in a group home for persons with mental illness she threatened to kill them with a knife she held, so they retreated. The officers reentered her room and she still had the knife in her hand. One officer pepper sprayed Sheehan but she refused to drop the knife so the officers shot her multiple times. San Francisco agreed with Sheehan that Title II of the ADA applies to arrests but argued that Sheehan wasn't a qualified individual with a disability because she was a "direct threat" to the officers. Because the parties agreed that Title II applies to arrests the Court dismissed this issue as improvidently granted. The Court held the officers were entitled to qualified immunity though they reentered her room rather than attempted to accommodate her disability. Even assuming that "any reasonable, competent officer on notice that it is unreasonable to forcibly enter the home of an armed, mentally ill suspect who had been acting irrationally and had threatened anyone who entered when there

was no objective need for immediate entry," no precedent clearly establishes there was no objective need for immediate entry herewhere Sheehan could have gathered more weapons or escaped.

In a *per curiam* (unauthored) opinion the Court concluded in *Grady v. North Carolina* that satellite-based monitoring (SBM) for a recidivist sex offender is a Fourth Amendment "search." Torrey Dale Grady argued that North Carolina's monitoring program for recidivist sex offenders, which would force him to wear a tracking devise at all times, violated the Fourth Amendment. The Fourth Circuit distinguished Grady's case from *United States v. Jones* (2012), where the Supreme Court held that installing and monitoring a GPS devise on a suspect's car is a Fourth Amendment search, based on circuit precedent that SBM monitoring is civil and not criminal. The Court relied on *United States v. Jones* and *Florida v. Jardines* (2013), where a "drug-sniffing dog nose[d] around a suspect's front porch" to conclude a search occurred here. In all three cases the government physically occupied private property to obtain information. The fact that North Carolina's SBM program was civil did not matter because "the government's purpose in collecting information does not control whether the method of collection constitutes a search." The Court left it to the lower court to decide whether it is an *unreasonable*, and therefore unconstitutional, search.

In *Carroll v. Carman* the Court held, in a *per curiam* (unauthored) opinion, that the Third Circuit improperly denied qualified immunity to a police officer who "knocked and talked" to a homeowner at his back door, rather than his front door, without a warrant. The "knock and talk" exception to the Fourth Amendment's warrant requirement allows police officers to knock on a resident's door and speak to its inhabitants as any other person would. Officer Carroll knocked on the Carmans' back door, which he described as looking like a customary entryway, in search of a man who had stolen a car and two loaded guns. The Court concluded that it wasn't clearly established that the "knock and talk" exception only applies to knocks at the front door. The only circuit precedent the Third Circuit pointed to didn't hold that knocking on the front door is required before officers go onto other parts of the property open to visitors. And other federal and state courts have rejected the Third Circuit's approach. Notably the Court declined to decide whether police can "knock and talk" at any entrance open to visitors rather than only the front door.

In a *per curiam* (unauthored) opinion in *Taylor v. Barkes* the Court granted two prison officials qualified immunity related to an inmate's suicide reasoning that no precedent at the time established that an incarcerated person had a right to proper implementation of adequate suicide prevention protocols. A prison contract nurse screened Christopher Barkes, found only two risk factors for suicide, and did not initiate special suicide prevention measures. He committed suicide the next day. His family sued the Commissioner of Corrections and the warden claiming they violated his right to be free from cruel and unusual punishment by failing to supervise the nurse. The Court granted the officials qualified immunity noting that no Supreme Court precedent even discusses, much less grants, inmates a right to proper implementation of adequate suicide prevention protocols. While Third Circuit precedent stated that if prison officials know an inmate is vulnerable to suicide they may not act with reckless indifference, it did not state that prisons must implement particular procedures to identify vulnerable inmates.

In *Johnson v. City of Shelby, Mississippi*, in a *per curiam* (unauthored) opinion, the Court held that police officers did not have to invoke 42 U.S.C. § 1983 in their constitutional claim against Shelby. 42 U.S.C. § 1983 is a vehicle for private parties to sue state and local governments for constitutional violations. In this case police officers alleged in their complaint that the city's board of aldermen fired them for bringing to light the criminal activities of one alderman in violation of their Fourteenth Amendment due process rights. The Fifth Circuit dismissed the officers' complaint because they didn't invoke § 1983 reasoning that "[c]ertain consequences flow from claims under § 1983, such as the

unavailability of *respondeat superior* [employer] liability, which bears on the qualified immunity analysis." The Supreme Court pointed out that the Fifth Circuit was confused in its perception of the officers' suit which was against the city. Unlike a municipal officer, a city cannot invoke qualified immunity. More generally, the Court stated that federal pleading rules don't require a complaint to be dismissed because it imperfectly states the legal theory supporting it.