2006-2007 United States Supreme Court Term: Cases Affecting Criminal Law and Procedure

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Fourth Amendment Issues

Court Rules That Crawford v. Washington, 541 U.S. 36 (2004) Is Not Retroactive

Whorton v. Bockting, 127 S. Ct. 1173, 167 L. Ed. 2d 1 (28 February 2007). In Crawford v. Washington, 541 U.S. 36 (2004), the United States Supreme Court ruled that "testimonial statements" by witnesses who do not appear at trial may not be admitted unless the witness is unavailable to testify and there has been a prior opportunity for cross-examination. The Court ruled in this case that the *Crawford* ruling was not retroactive and thus did not apply to cases that had become final on direct review before the date of the *Crawford* ruling, March 8, 2004.

Officer's Ramming Plaintiff's Vehicle From Behind to Stop Plaintiff's Public-Endangering Flight Did Not Violate Fourth Amendment

Scott v. Harris, 127 S. Ct. 1769, 167 L. Ed. 2d 686 (30 April 2007). The plaintiff sued an officer and others for allegedly violating his Fourth Amendment rights in a high-speed chase that resulted in injury to the plaintiff. The Court ruled, based on the facts in this case, that the officer did not violate the Fourth Amendment by attempting to stop the plaintiff's vehicle from continuing his public-endangering flight by ramming his vehicle from behind.

Officers Did Not Violate Fourth Amendment During Execution of Search Warrant

Los Angeles County v. Rettele, 127 S. Ct. 1989, 167 L. Ed. 2d 974 (21 May 2007). Plaintiffs (a male and a female) sued law enforcement officers and others for allegedly violating their Fourth Amendment rights during an execution of a search warrant authorizing a search of their residence. From September to December 2001, officers investigated a fraud and identity-theft crime ring involving four suspects, all of whom were known to be African-Americans. One had registered a 9 millimeter Glock handgun. On December 11, 2001, an officer obtained a search warrant for two houses where he believed he could find the suspects. (Plaintiffs did not challenge the validity of the search warrant or the means by which it was obtained.) Six officers were involved with the execution of the search warrant and were informed that the suspects were African-Americans, one of whom owned a registered handgun. The officers with guns drawn entered the house and then a bedroom in which the plaintiffs were in bed under bed sheets. The plaintiffs, who were white, were ordered to get out of bed and show their hands. They protested that they were not wearing clothes. They were held at gunpoint for one to two minutes before being allowed to get dressed. The officers apologized to the plaintiffs, thanked them for not becoming upset, and left within minutes. The Court ruled that the officers did not act unreasonably under the Fourth Amendment in executing the search warrant. Concerning the plaintiffs' race, the Court noted that when the officers ordered them from their bed, they had no way of knowing whether the African-American suspects were elsewhere in the house. The officers, who were searching a house where they believed a suspect was armed, could secure the premises before deciding whether to continue the search. The Court stated that the constitution does not require an officer to ignore the possibility that an armed suspect may sleep with a

weapon within reach. The officers were not required to turn their backs to allow the plaintiffs to retrieve clothing or to cover themselves with the bed sheets. And there was no allegation that the officers prevented the plaintiffs from dressing longer than necessary to protect their safety.

Court Rules That Officers' Stop of Vehicle in Which Defendant Was a Passenger Was a Seizure of Passenger Under Fourth Amendment So Passenger Could Contest Stop's Validity

Brendlin v. California, 127 S. Ct. 2400, 168 L. Ed. 2d 132 (18 June 2007). Officers stopped a car in which the defendant was a passenger. The defendant remained in the vehicle and was eventually arrested. The Court ruled, reviewing its prior cases defining the seizure of a person under the Fourth Amendment, that the passenger was seized and therefore could contest the validity of the stop of the vehicle. The Court stated that any reasonable passenger in the defendant's position would have understood the officers to be exercising control to the extent that no one in the car was free to depart without their permission.

Miscellaneous

Court Rules That Judge in Death Penalty Trial Did Not Err in Granting State's Motion to Challenge Prospective Juror for Cause Based on Juror's Death Penalty Views

Uttecht v. Brown, 127 S. Ct. 2218, 167 L. Ed. 2d 1014 (4 June 2007). The Court ruled that a state trial judge acted within his discretion in granting the state's motion to challenge a prospective juror for cause on the ground that the juror's views on the death penalty substantially impaired his ability to decide whether to impose the death penalty. (See the Court's detailed discussion of the jury voir dire.) The Court noted that a trial judge is in a superior position to assess demeanor, a factor critical in assessing the attitude and qualifications of a prospective juror.

(1) Federal Habeas Statutory Bar on Second or Successive Applications Does Not Apply to *Ford v. Wainwright* Claims Brought in Application When Claim Is First Ripe
(2) State Court's Failure to Provide Defendant Minimum Process Set Out in *Ford v. Wainwright* Constituted Unreasonable Application of Clearly Established U.S. Supreme Court Law
(3) *Ford v. Wainwright* Standard Includes Consideration Whether Gross Delusions Prevent Defendant from Comprehending Meaning and Purpose of Punishment to Which Defendant Has Been Sentenced

Panetti v. Quarterman, 127 S. Ct. 2842, ___ L. Ed. 2d ___ (28 June 2007). The plaintiff in a federal habeas petition had been convicted in a Texas state court of capital murder and sentenced to death. His first federal habeas petition did not allege that he was not mentally competent to be executed under Ford v. Wainwright, 477 U.S. 399 (1986). His second federal habeas petition made that allegation. The Court ruled: (1) the federal habeas statutory bar on second or successive applications does not apply to a *Ford v. Wainwright* claim brought in an application when the claim is first ripe; (2) the state court's failure to provide the plaintiff with minimum process set out in *Ford v. Wainwright* constituted an unreasonable application of clearly established U.S. Supreme Court law (see the Court's discussion of what constitutes minimum due process and why the state court had failed to provide it); and (3) the *Ford v. Wainwright* standard includes consideration whether gross delusions prevent the defendant from comprehending the meaning and purpose of the punishment to which he has been sentenced.

California "Catchall" Jury Instruction on Mitigating Evidence in Capital Sentencing Hearing Did Not Violate Defendant's Eighth Amendment Right to Present All Mitigating Evidence

Ayers v. Belmontes, 127 S. Ct. 469, 166 L. Ed. 2d 334 (13 November 2006). In capital sentencing hearing in a California state court, the trial judge (after instructing the jury on specific aggravating and mitigating factors) instructed the jury to consider "[a]ny other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime." The defendant had presented evidence that he would lead a constructive life if incarcerated rather than executed—namely, his religious commitment. The Court ruled that the jury instruction did violate the defendant's Eighth Amendment right to present all mitigating evidence.

In Federal Habeas Corpus Action, Court Rules State Appellate Court Ruling That Trial Spectators' Wearing Buttons Displaying Murder Victim's Image Did Not Violate Defendant's Constitutional Rights Was Neither Contrary to Nor an Unreasonable Application of Clearly Established Federal Law, as Determined by United States Supreme Court

Carey v. Musladin, 127 S. Ct. 649, 166 L. Ed. 2d 482 (11 December 2006). The defendant was convicted of murder in a state court jury trial during which family members of the murder victim sat in the front row and wore buttons displaying the victim's image. The defendant's conviction was affirmed by a state appellate court, which ruled that the spectators' conduct did not violate the defendant's Sixth or Fourteenth Amendment rights. The defendant later filed a federal habeas corpus action alleging that his constitutional rights were violated by the spectators' conduct during his trial. The Court ruled that the state appellate court's ruling was neither contrary to nor an unreasonable application of clearly established federal law, as determined by the Court. The Court stated that the effect on a defendant's fair trial rights of the spectator conduct, which was not instigated by the state, was an open question in the Court's jurisprudence. [Author's note: This ruling did not determine that the defendant's constitutional rights were not violated. Instead, the ruling determined that the defendant's conviction would not be reversed in a federal court habeas corpus action under the standard of federal habeas corpus review set out in federal law.]