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Fourth Circuit Court of Appeals

(Note: You may access the court's opinion by clicking on the case name)

Court Rules That Defendant Law Enforcement Officers Were Not Entitled to Summary Judgment Based on Qualified Immunity in Plaintiff's 42 U.S.C. § 1983 Lawsuit Alleging That Officers Did Not Have Probable Cause to Arrest Plaintiff

[Graham v. Gagnon](#), ___ F.3d ___, 2016 WL 4011156 (4th Cir. July 27, 2106). Local Virginia law enforcement officers responded to a report of an assault and obtained an arrest warrant for Twinam. They went to his house to execute the warrant and confronted Twinam on the porch. Told that there was a warrant for his arrest, Twinam ran into the house, shutting and locking the side door, and shouting, "Mom, the cops are here." Twinam's mother, Graham, came to the front door in response to the officers' knocking at the front and side doors. After explaining they had a warrant for Twinam (although they did not have the warrant with them), the officers explained that they needed her to produce Twinam so he could be taken into custody. She said to let her speak with her son and get him. She later returned within a minute and told them that she was talking with her son and trying to get him to come out. She again walked into the house and eventually Twinam came toward the front door and officers entered the house and arrested him. Officers later obtained an arrest warrant charging Graham with the Virginia statutory offense of obstructing a law enforcement officer.

Graham sued the officers under 42 U.S.C. § 1983 for violating her Fourth Amendment rights by arresting her without probable cause. The district court granted the officers' motion for summary judgment based on qualified immunity.

The fourth circuit reversed the district court. The court noted that an arresting officer is not automatically immunized from civil suit merely because a magistrate found probable cause and issued an arrest warrant. A warrant will not preclude civil liability when it is obvious that no reasonably competent officer would have concluded that a warrant should issue. To state it another way, civil liability is not precluded when it is objectively unreasonable to conclude there was probable cause that Graham violated the obstruction statute. After examining the facts in the light most favorable to Graham on the defendants' summary judgment motion, considering only the information known to the officers, and reviewing the elements of the Virginia offense of obstructing an officer, the court ruled that the defendant officers were not entitled to summary judgment based on qualified immunity.

Court Rules That Officer Did Not Unconstitutionally Prolong Traffic Stop Based on Odor of Marijuana Emanating From Vehicle

[State v. White](#), ___ F.3d ___, 2016 WL 4717943 (4th Cir. Sept. 9, 2016). A local West Virginia law enforcement officer stopped a car that had veered out of its lane. In addition to the driver, there was a front seat passenger, the defendant, and one back seat passenger, Bone. When approaching the driver's window, he smelled an odor of burned marijuana emanating from the car. The driver, whom the officer concluded was not impaired, denied knowledge of the marijuana. The officer requested that the defendant exit the car and asked him about the marijuana odor, but he denied anything illegal in the car. While talking with Bone, the officer saw a firearm in a piece of plastic molding on the front side of the passenger seat where the defendant had been sitting. The defendant was arrested and later convicted in federal district court of possession of a firearm by a felon.

The defendant conceded that the stop of the vehicle was supported by reasonable suspicion of a traffic violation under West Virginia law, but he contended that the officer unconstitutionally prolonged the stop. The fourth circuit noted that its case law provides that the odor of marijuana alone can provide probable cause to believe that marijuana is present in a particular place. So the officer had reasonable suspicion to extend the traffic stop to investigate the marijuana odor. And during that investigation the officer found the firearm. The court ruled that therefore the officer did not unconstitutionally prolong the traffic stop.