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Case Summaries: Fourth Circuit Court of Appeals (Dec. 2, 3, 11, & 16, 2025)

Information omitted from search warrant application would not have defeated probable cause; denial of *Franks* motion affirmed

U.S. v. Glass, 160 F.4th 563 (Dec. 2, 2025). In this case from the Western District of North Carolina, the defendant's wife reported to law enforcement that the defendant's phone contained "a massive amount" of child sexual abuse material (CSAM). She gave police the email address for the defendant's Google Photos account and the likely password to that account. While speaking with a detective, she complained about the defendant and informed him that she hoped to soon divorce the defendant and obtain alimony payments. In a later meeting with a different police investigator, the woman stated that the defendant's phone had at least 50 images of extremely graphic child pornography and that the defendant would recruit underage girls on social media to send him such images. During his investigation, the detective learned that the defendant's wife had a pending charge for misdemeanor larceny and was being investigated for a separate incident of shoplifting. He also discovered that the defendant had been investigated three times before for child pornography offenses. In 2012, the defendant's former wife reported seeing the defendant repeatedly view child CSAM. This led to two charges of forcible sodomy of a minor being brought against the defendant, but one of the charges was dismissed pretrial and the defendant was acquitted in a bench trial for the other. In 2016, the mother of the defendant's current wife provided law enforcement with CSAM images allegedly found on the defendant's phone, but that investigation was closed without charges being brought. The detective in the current investigation spoke to both prior complainants and deemed the former wife's story credible and the mother of the defendant's current wife not credible. The detective also discovered that the current wife had previously made a report about the defendant possessing CSAM in 2019. That report led to police searching the defendant's home and electronic devices, but the investigation was closed as "unfounded" when no CSAM was discovered.

The detective in the current investigation eventually drafted a new search warrant for the defendant's electronic devices. The affidavit in support of the search warrant mentioned the most recent report by the defendant's wife to law enforcement, including her descriptions of the CSAM she had seen on the defendant's phone and her report that the defendant recruited minors online. It also explained that the defendant had previously been investigated for similar activity. The affidavit did not recount the details of the earlier investigation that was closed as unfounded or that the defendant was not charged in another prior investigation. It also did not explain that the defendant was estranged from his current wife, nor did it mention the wife's pending larceny charge or that she was being investigated for shoplifting in another case.

Police obtained the search warrant and seized several devices from the defendant's home. Police also obtained the defendant's cell phone and a separate search warrant for it based on the same supporting information. The devices recovered from the defendant's home had nearly 400 unique CSAM images; the defendant's phone had another 72 unique CSAM images. The defendant was indicted for multiple counts of receiving child pornography and one count of possessing child pornography of a minor less

than 12 years old. The defendant moved to suppress, arguing that the detective omitted material information from his affidavit that would have thwarted probable cause. The district court conducted a *Franks* hearing and ultimately denied the motion. *See Franks v. Delaware*, 438 U.S. 154 (1978). The district court reasoned that the detective had not intentionally misled the judge who issued the search warrant, nor had he recklessly omitted information. Alternatively, the district court found that the omitted information would not have defeated probable cause. A jury convicted the defendant of all counts, who received a sentence of 15 years. He appealed, arguing that the district court erred in denying his Franks motion and that his convictions for three counts of receiving child pornography violated double jeopardy principles (among other arguments).

On appeal, the Fourth Circuit affirmed the denial of the defendant's motion to suppress. The detective's affidavit recounted the information provided by the defendant's wife, which was "detailed and specific" about seeing the defendant access CSAM, the graphic nature of the CSAM images, where the defendant's electronic devices would be found, and how the defendant solicited the images from minors online. The affidavit also explained that the defendant had been repeatedly investigated in the past for similar offenses. That the defendant had twice been previously investigated without charges being brought did not defeat the probable cause provided by the wife's more recent information. While the affidavit did not spell out that the defendant and his wife were estranged, that fact could easily be inferred from the information in the affidavit. Likewise, the failure to include the criminal history of the wife "did not move the probable cause needle, either." *Glass* Slip op. at 12.

As to the double jeopardy challenge, the defendant raised no such argument at trial. The issue was therefore reviewed for plain error only. Here, the indictments charged the defendant with having received child pornography on three distinct dates and the evidence supported each distinct count. Thus, no double jeopardy violation occurred.

Another challenge was also rejected, and the judgment of the district court was unanimously affirmed in all respects.

Claims for retaliatory search under the First and Fourth Amendments must allege an absence of probable cause; plaintiff's complaint was properly dismissed when he failed to do so

Stanley v. Bocock, 160 F.4th 573 (Dec. 2, 2025). The plaintiff was a community activist in and around Rocky Mount, Virginia. He posted a 17-minute-long video of the local police department's "internal office security footage" on Facebook. When law enforcement realized this happened, they began investigating the plaintiff for potential computer trespass charges, including applying for a search warrant to search the plaintiff's Facebook account. In the affidavit in support of the warrant, the applicant noted that the plaintiff had previously made disparaging posts to Facebook about the local police department. The search of the plaintiff's Facebook account led police to believe that the plaintiff's Gmail account might contain evidence of how the plaintiff came to possess the video footage, so they applied for an additional search warrant for that account. The plaintiff attempted to quash both search warrants, but Virginia courts rejected those efforts. Eventually, a prosecutor concluded that there was insufficient evidence to charge the plaintiff.

The plaintiff sued the investigator in his personal and official capacity, arguing that the searches were retaliation for his speech critical of the police department. He twice amended his complaint to add facts

in support of his First and Fourth Amendment claims, but the district court ultimately found that the complaint failed to state a claim and granted the defendant's motion to dismiss. The plaintiff appealed.

For a First Amendment retaliation claim against law enforcement for illegal arrest or prosecution to survive a motion to dismiss, the plaintiff must allege that police acted without probable cause. *Hartman v. Moore*, 547 U.S. 250, 263 (2006). A narrow exception to that rule exists where the plaintiff can show that he or she was arrested when other similarly situated people were not for the same conduct. *Nieves v. Bartlett*, 587 U.S. 391, 407 (2019). While the Fourth Circuit has not previously decided whether the same standard applies to retaliatory search claims, it took the opportunity here to explain that *Hartman* controlled these claims as well. Here, the plaintiff wholly failed to plead the absence of probable cause. He also failed to show that he was targeted by police when other, similarly situated people were not. The First Amendment retaliation claim was therefore properly dismissed.

The plaintiff was also required to plead an absence of probable cause for his Fourth Amendment retaliatory search claim. *Pearson v. Callahan*, 555 U.S. 223, 241-42 (2009). Because he failed to do so, that claim too was properly dismissed.

The district court's judgment was therefore unanimously affirmed.

Statute prohibiting knowingly teaching bombmaking to a person who intends to commit a violent crime is not facially overbroad; motion to dismiss properly denied

U.S. v. Arthur, 160 F.4th 597 (Dec. 3, 2025). Under 18 U.S.C. 842(p)(2)(B), it is a crime to teach another person how to create or use "explosives, destructive devices, or weapons of mass destruction, knowing that such person intends to use that teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence." (cleaned up). The defendant ran a business that sold military equipment and offered training for people to help defend themselves "against a tyrannical government of our own or an invading tyrannical government." *Arthur* Slip op. at 4. After one of the defendant's customers was involved in a "fatal incident," the FBI searched the customer's home and discovered numerous manuals authored by the defendant, along with 14 functional pipe bombs that matched explosive devices described in the manuals. The FBI arranged for an undercover informant to contact the defendant and engage his training services. When the two met in person, the informant told the defendant that federal agents had been to his home, were probably going to return, and that he wanted to be prepared for their return. In response, the defendant told the informant that his choices were to either "stand and fight" the agents or flee. When the informant indicated he was not willing to flee, the defendant explained to the informant how to protect his property from federal agents. This included advice on how to use grenades, improvised explosive devices (IEDs), guns capable of being fired remotely, and more. The defendant also showed the informant how to create a detonator and how to modify a shotgun so that it could fire grenades. Federal agents later arrested the defendant and searched his property, finding multiple IEDs and guns. In addition to the 18 U.S.C. 842 charge, the defendant was charged with several other counts relating to possession of illegal guns and bombs.

The defendant moved to dismiss pretrial, arguing that 18 U.S.C. 842(p)(2)(B) was facially overbroad. The district court denied the motion, finding that the statute did not limit protected speech and that the knowledge requirement of the law narrowed its scope to something akin to an aiding and abetting statute. The district court noted that the conduct covered by the statute went far beyond "abstract advocacy" of violence. *Arthur* Slip op. at 8. Following a jury trial, the defendant was convicted of all

counts and sentenced to 300 months in prison. The defendant appealed, and a divided panel of the Fourth Circuit affirmed.

A law is facially overbroad under the First Amendment when it "criminalizes a substantial amount of protected expressive activity." *Id.* at 12 (internal citation omitted). A court considering an overbreadth challenge must first analyze the scope of the challenged law and determine whether it may be read narrowly to avoid a constitutional issue. Next, the court must examine the breadth of protected speech criminalized by the statute. The challenger has the burden to show that the law substantially burdens protected expression compared to its legitimate reach. The court must also consider whether the speech affected by the statute is among the categories of unprotected speech. If the court determines that the statute is constitutionally overbroad, the court must then examine whether the overbroad part of the law is severable from the rest of the law.

Here, Congress substantially narrowed the reach of 18 U.S.C. 842(p)(2)(B) by including a knowledge requirement—the law only applies to those who teach or distribute knowledge about the creation of or use of explosives while knowing the recipient of the information intends to use it for illegal purposes. The law does not sweep in an undue amount of protected expressive activity, because it only applies to speech integral to criminal conduct, one of the categories of unprotected speech. 18 U.S.C. 942(p)(2)(b) only applies to someone who is effectively assisting in the commission of a crime by another. According to the court:

> [S]omeone violating § 842(p)(2)(B) is aiding—i.e., facilitating—the underlying crime by intentionally sharing the specified information with someone that they know intends to use it to commit a proscribed crime. And because that sort of facilitation is undoubtedly 'integral' to the underlying crime, it is unprotected speech. *Id*. at 18-19.

Even if the statute could theoretically be applied to protected speech, the defendant here failed to show that the statute sweeps in a substantial amount of protected speech compared to its lawful applications. Thus, the district court correctly denied the motion to dismiss.

A challenge to a sentencing enhancement for terrorism also failed, and the judgment of the district court was affirmed.

Judge Gregory dissented and would have struck down 18 U.S.C. 842 (p)(2)(B) as facially overbroad.

Drug investigation stemming from traffic stop was not supported by reasonable suspicion of a drug offense; denial of motion to suppress reversed

U.S. v. Hawkins, 161 F.4th 242 (Dec. 11, 2025). One afternoon, drug task force officers were patrolling a high crime area known for illegal drug activity. They spotted a car with expired tags, tinted windows, and a broken taillight. The officers knew the car was owned by a man who was currently on federal supervised release for a 2015 drug conviction. That man was driving the car and another person, also familiar to the officers as someone formerly involved with drugs, was in the passenger seat. The officers followed the car to an apartment building. The car parked in the parking lot and a man in a red jacket walked up to the car, briefly reached inside, and spoke with the two occupants. While officers did not observe any items change hands, they believed that the men had conducted a drug sale. The man in the red jacket left the car after around two minutes. Soon thereafter, the defendant approached the car and sat in the back seat. The car then left the parking lot. The task force officers radioed to a traffic patrol

officer and relayed what they had seen in the parking lot, and the patrol officer stopped the car based on traffic violations and suspicion of drug activity. The officer separated the occupants of the car and questioned them individually about where they were coming from and whether they had met anyone at the apartment building. The driver stated they were coming from the apartment building and had not met with anyone. When pressed about the man in the red jacket who approached the car, the driver admitted that the man had asked for a cigarette. The front seat passenger also confirmed that they had been at the apartment building and stated that the man who approached the car was the defendant's uncle, who was looking for employment. The patrol officer contacted a K9 unit, and the canine ultimately alerted on the car. All three men were frisked, and officers discovered a gun on the defendant (although no drugs were found). The defendant admitted that he was not allowed to possess the weapon due to a prior domestic violence conviction. He was indicted in the Northern District of West Virginia for illegal possession of a firearm. The defendant moved to suppress, arguing that the officers unlawfully extended the traffic stop without reasonable suspicion. The district court denied the motion and the defendant entered a conditional guilty plea, preserving his right to appeal the denial of his suppression motion. On appeal, a unanimous panel of the Fourth Circuit reversed.

When a car is stopped for a suspected traffic violation, police are authorized to investigate the suspected violation. *Rodriguez v. United States*, 575 U.S. 348, 354. During such a stop, the officer is justified in performing the normal incidents of a traffic stop, such as checking the driver's license, ensuring the driver has insurance, and looking for any outstanding arrest warrants. Once these steps are complete, the stop may not be extended unless the driver consents or the officer develops reasonable suspicion of another crime. *U.S. v. Branch*, 537 F.3d 328, 336 (4th Cir. 2008).

Here, the government argued that the officer developed reasonable suspicion of a drug offense based on the defendant's presence in a high-crime area associated with drug activity, the fact that the driver of the car had a 2015 drug conviction, the interaction at the apartment building before the defendant entered the car, and the alleged differences between the driver's and passenger's statements to the stopping officer. The Fourth Circuit has consistently treated a suspect's presence in a high crime area as "a weak and generic factor," and one incapable of creating reasonable suspicion on its own. *Hawkins* Slip op. at 8. Moreover, despite the general area being identified as a high crime area, the apartment building itself was not. Similarly, the fact that the driver of the car had a prior criminal record could not, on its own, create reasonable suspicion. "There is no evidence that [the driver] has not been compliant with the terms and conditions of his release or that [he] is involved in any criminal activity." *Id*. This factor too was entitled to "little weight in the totality of circumstances." *Id*. As to the officers' observations of an interaction between the occupants of the car and another man in the parking lot of the apartment building, the government offered nothing to show that the interaction was a drug deal instead of a normal conversation between acquaintances. According to the court:

> The officers never witnessed a handshake or any items change hands in the car. [The man visiting the car] remained near the vehicle and spoke with [the occupants] for approximately two minutes, which is less suggestive of a drug transaction than an abrupt handshake not accompanied by any conversation. And when he did leave the car, the officers never saw [the man] holding anything in his hands or placing anything in his pockets. Nor did the officers witness multiple people approaching and interacting with the car. . . The officers essentially said, 'I know it when I see it.' These facts cannot amount to

a reasonable, particularized suspicion and deserve little weight in the totality of circumstances. *Id*. at 9-10.

Finally, the minor differences between the driver's and passenger's statements to the patrol officer also failed to establish reasonable suspicion. To the extent the statements varied from each other, those differences were "minor and reconcilable." *Id*. at 10. Even when each of these factors are weighed together, they failed to establish reasonable suspicion that the occupants of the car were committing a crime. Thus, the motion to suppress should have been granted. The district court's order to the contrary was reversed and the matter was remanded for additional proceedings.

10-year delay of prosecution due to the defendant serving a sentence in a foreign country did not violate the defendant's speedy trial rights

U.S. v. Chaudhry, 162 F.4th 133 (Dec. 16, 2025). The defendant was a Pakistani national who moved to the United States as a young child. He eventually naturalized and became a citizen of both countries. In 2009, he and a group of associates travelled to Pakistan in hopes of fighting against American and allied forces in Afghanistan. After the defendant's family reported him missing and informed the FBI of his intent to wage jihad, he was arrested by Pakistani officials. The FBI interviewed the defendant in Pakistan two days later, and he affirmed his intention to fight against U.S. forces in Afghanistan. The FBI informed Pakistani officials of their plan to charge the defendant criminally, but the relevant treaty between the U.S. and Pakistan provides that a person facing charges or serving a sentence in Pakistan may not be extradited. U.S. authorities commonly face long delays in attempting to extradite suspects from Pakistan, and U.S. extradition requests are sometimes ignored altogether. For example, the U.S. has only successfully extradited two people from Pakistan since 2015. Pakistan will sometimes agree to deport foreign nationals, which is a much quicker process than extradition. U.S. authorities therefore hoped to obtain the consent of Pakistani officials to voluntarily deport the defendant. Formal charges of conspiring to provide material support to terrorists were brought in late 2009 in the Eastern District of Virginia. Federal authorities informed Pakistani officials of their desire to take the defendant into custody and provided copies of the arrest warrants. Pakistani officials responded that the defendant and his associates were being detained in that county and could not be transferred to U.S. custody. U.S. consul officials advised the Department of Justice that a formal extradition request might be more effective under the circumstances, and an official request was filed with Pakistan soon thereafter. U.S. officials did not receive a response to that request. In June of 2010, the defendant was convicted of conspiracy to commit terrorism in Pakistan and was sentenced to 10 years imprisonment.

U.S. officials periodically checked on the status of the extradition request over the next nine years. In 2017, the Department of Justice obtained indictments and new arrest warrants for the defendant and his companions, charging them with various offenses relating to supporting foreign terrorist groups. U.S. officials discovered that the defendant was set to be released from Pakistani prison in the spring of 2020, but Pakistan would not consent to voluntarily deport the defendant, requesting instead that the U.S. make a new formal request for extradition. That formal request was provided to Pakistani officials in November of 2020, but the defendant had already been released from Pakistani prison at that point. The defendant was re-arrested by Pakistani officials in 2022 and began litigating against the U.S. extradition request. In July of 2023, Pakistani officials finally approved the request, and the defendant was extradited to the U.S. in December of 2023.

In pretrial proceedings, the defendant waived his right to trial within 70 days, as provided by the Speedy Trial Act. In January of 2024, the defendant moved to dismiss on Sixth Amendment grounds for a violation of his right to a speedy trial. The district court denied that motion finding that while the length of delay weighed in the defendant's favor, the other factors (the reason for the delay, the defendant's assertion of speedy trial rights, and prejudice) all weighed in the government's favor. The defendant then entered a conditional guilty plea to one count of conspiring to support a foreign terrorist group in exchange for the government agreeing to request a time served sentence, followed by 20 years of supervised release. The agreement also permitted the defendant to appeal the denial of his motion to dismiss. On appeal, a unanimous panel of the Fourth Circuit affirmed.

The court assumed without deciding that the defendant's speedy trial clock began running in 2009, when warrants for his arrest were first issued. This delay was significant enough to trigger the speedy trial analysis and weighed in the defendant's favor. As to the other factors, the district court correctly determined that efforts to extradite the defendant prior to the completion of his sentence in Pakistan would have been futile and that the government's other steps to obtain custody of the defendant were reasonable and were done in good faith. Because the government "neither deliberately delayed [the defendant's] prosecution nor was it negligent in failing to seek [the defendant's] extradition before it did," the reasons for the delay were valid ones and weighed in the government's favor. The defendant did not diligently assert his speedy trial rights when he learned of the charges; instead, he sought to avoid trial in the U.S. by fighting extradition from Pakistan for around 11 months. While he did file a motion to dismiss on speedy trial grounds within roughly a month of his arraignment in federal district court, he also consented to a continuance under the Speedy Trial Act. Although this fact did not weigh against the defendant as heavily as it might for a defendant who consents to multiple continuances, the district court did not err in finding that the defendant's assertion of the right weighed against the defendant. Finally, the defendant did not make a sufficient showing of prejudice. While Supreme Court precedent holds that prejudice can be presumed when there is a long delay caused by government negligence, the government here was not negligent. Thus, the defendant was required to show actual prejudice. The defendant argued that the delay caused him to lose an opportunity to serve the U.S. and Pakistani sentences concurrently, that he suffered inhumane conditions while serving his sentence in Pakistan, and that his defense was impaired by the loss of one of his co-defendants as a potential witness (that witness suffered a mental health issue and could not testify at the time of the defendant's trial). The possibility of concurrent sentences in both jurisdictions was purely speculative and was undercut by the fact that the defendant ultimately received a time-served sentence in the U.S. Any inhumane conditions suffered by the defendant while in the custody of Pakistani authorities was not attributable to the U.S. and was not a direct result of the delay. The defendant also failed to identify with specificity what the missing witness would have testified to or whether it would have aided his defense in a meaningful way. "Without any additional information, [the defendant's] vague and speculatory assertions of harm are insufficient to demonstrate actual prejudice." *Chaudhry* Slip op. at 35.

The judgment of the district court was therefore affirmed in all respects.