

Case Summaries: Fourth Circuit Court of Appeals (Mar. 4, 11, & 24, 2025)

Knock and announce before execution of search warrant was not required by the Fourth Amendment or federal statute when exigent circumstances existed

[U.S. v. Williams](#), 130 F.4th 177 (Mar. 4, 2025). Local police in the District of Maryland were investigating Noah Smothers, whom they suspected of high-level drug trafficking. During the investigation, they discovered that Smothers was distributing large amounts of marijuana and other drugs to Scott Williams and his son, Taeyan Williams. That pair were in turn distributing the drugs to college students in the area. A dispute about money arose between the three men at some point, and they arranged a meeting to discuss the issue. At some point after the meeting date, Smothers vanished, along with the contents of his storage unit. Police eventually obtained a search warrant for Williams' home to look for evidence relating to Smother's disappearance. Officers found more than 72 pounds of marijuana, more than 245 grams of cocaine, more than 545 grams of methamphetamine, a drug ledger, and more than \$210,000 in currency, although they did not recover evidence relating to Smother's disappearance. The pair were indicted for various gun, drugs, robbery, kidnapping, destruction of evidence, and conspiracy offenses. The defendants were tried jointly. Both were convicted of conspiracy to distribute drugs and possession with intent to distribute cocaine and marijuana, and the father was also convicted of possession with intent to distribute methamphetamine and destruction of evidence. The men were acquitted of all other offenses. They jointly appealed. The father argued in part that the district court erred in denying his motion to suppress the fruits of the search warrant. According to the father, police violated "knock and announce" rule during execution of the search warrant and this required suppression under the relevant federal statute, 18 U.S.C. § 3109, as well as under the Fourth Amendment. The district denied the motion on grounds that suppression was not the proper Fourth Amendment remedy for a knock and announce violation, citing *Hudson v. Michigan*, 547 U.S. 586 (2006) (rejecting suppression as a Fourth Amendment remedy for knock and announce violations). The district court also rejected the statutory argument, finding that 18 U.S.C. § 3109 incorporated Fourth Amendment reasonableness standards for the knock and announce rule, and that *Hudson* controlled both the constitutional and statutory claims. On appeal, the father advanced the statutory argument only. A unanimous panel of the Fourth Circuit rejected this argument. The court noted that it could affirm the district court's ruling on "any ground supported by the record," and that the district court's reasoning was not binding on appeal. *Williams* Slip op. at 9-10. Even if officers violated the knock and announce rule, the court determined that exigent circumstances permitted the officers to do so on the facts of the case. According to the court:

Under both the Fourth Amendment and § 3109, an officer need not knock and announce 'when circumstances present a threat of physical violence, or if there is reason to believe that evidence would likely be destroyed if advance notice were given, or if knocking and announcing would be futile.' *Id.* at 11 (internal citations omitted).

At the time of the execution of the search warrant, the officers had reason to believe that the defendants were involved in the disappearance of Smothers. They knew someone had repeatedly accessed Smothers' store unit after his disappearance, that Smothers' phone had last pinged cell towers

near the defendants' home, and that a car similar to one seen on surveillance footage near the storage facility had been rented by one of the defendants around the time of Smothers' disappearance. "[This] information not only justified the warrant; it also established exigent circumstances—the need for law enforcement to pursue Smothers' potential kidnappers and prevent the potential destruction of a large amount of stolen drugs." *Id.* at 12. The officers were therefore not required to follow the knock and announce rule, and the ruling of the district court was affirmed.

Other challenges to the sufficiency of the evidence and the sentences were likewise rejected, and the judgment of the district court affirmed in all other respects.

First amendment retaliation claim that the plaintiff was punished for complaining about the conditions of confinement and encouraging others to do the same was adequately pled and could proceed; summary judgment of due process claims relating to conduct of disciplinary hearing process for failure to exhaust administrative remedies was improper where the plaintiff was denied access to the administrative process

[Gowen v. Winfield](#), 130 F.4th 162 (Mar. 4, 2025). The plaintiff was a pretrial detainee at a detention center in the Western District of Virginia. According to the plaintiff, the air conditioning in the facility ceased to function. He and a group of inmates requested a guard to leave open the food tray slots of the individual cells to provide additional air circulation. The guard contacted his supervisors, who agreed to open the food tray slots, with the plaintiff assisting the guards in doing so. The plaintiff then returned to his cell. One of the supervisors returned to the unit with a thermometer shortly thereafter. The plaintiff asked the supervisor about the temperature of his cell, but the supervisor would only share that the plaintiff's cell was "pretty warm." The plaintiff then suggested to other inmates that they lodge formal complaints over the heat and "stand up for their rights." The same supervisor returned to the unit a few hours later and notified the plaintiff that he was being investigated as a "management problem." The plaintiff was moved to an area of the facility known among the inmates as "the dungeon" – a solitary confinement area with "no outside windows, hot water, or access to hair clippers or shaving tools, and . . . constant overhead lighting." *Gowan Slip op.* at 5. A guard later informed the plaintiff that he was being investigated because of his behavior earlier that morning. The plaintiff was kept in this area for 34 days total before being afforded a hearing, during which time he filed formal and informal requests about why he was being held there and when his disciplinary hearing would occur. Despite being entitled to 24 hours' notice in advance of his hearing, the plaintiff was given no notice. He was also denied access to an inmate advisor, and two of his three witnesses for the hearing were not available, all in contravention of facility policies. The hearing panel recommended that the plaintiff continue to be kept in solitary confinement and for his case to be reviewed again in 90 days, without explanation. The plaintiff formally complained about the procedure and stated that he wished to pursue an appeal of the decision but never received a response from detention center officials. He was ultimately kept in solitary for 125 days, during which he was unable to exercise or meaningfully interact with others by phone or in person. The plaintiff began experiencing serious mental health issues, which the facility treated with anti-psychotic drugs. The plaintiff also suffered deterioration of his physical health, including gaining more than 50 pounds and experiencing high blood pressure, along with "seizure-like dizzy spells and an eczema-like skin condition." *Id.* at 8. He sued various detention center officials and guards pro se, arguing that the facility unlawfully retaliated against him for exercising protected speech under the First Amendment. He also claimed that his disciplinary hearing was conducted in violation of due process protections under the Fourteenth Amendment.

The defendants moved to dismiss the lawsuit. The district court denied the motion as to the due process claim but granted the motion to dismiss the First Amendment retaliation claim. It found that the plaintiff failed to sufficiently plead that his placement into solitary was a response to his speech. The defendants later moved for summary judgment on the due process claim, arguing that the plaintiff failed to exhaust administrative remedies. The district court ultimately accepted this argument and granted summary judgment to the defendants on that remaining claim.

On appeal, a unanimous panel of the Fourth Circuit reversed on both counts. The district court erred in dismissing the First Amendment retaliation claim, because the plaintiff adequately pled a First Amendment violation for being punished in response to his complaints about conditions at the facility and for his encouragement to other inmates to do the same. As to the due process claim, the plaintiff's complaint alleged that he repeatedly complained formally and informally about the process by which he was placed into solitary confinement and the conduct of his disciplinary hearing, without receiving responses from the facility. While the plaintiff was entitled to appeal the outcome of the disciplinary hearing to an administrative officer, he alleged that the guards informed him that there was no appeal available. Under these circumstances, the plaintiff was effectively denied access to the administrative remedy process, and the exhaustion requirement was waived. Thus, the order of the district court dismissing the First Amendment retaliation claim was vacated, and grant of summary judgment on the due process claim was reversed, and the matter was remanded for additional proceedings.

Prohibition on broadcasting of 'vulgar' speech violated the First Amendment and should have been enjoined

[Moshoures v. City of North Myrtle Beach](#), 131 F.4th 158 (Mar. 13, 2025). A local city ordinance in North Myrtle Beach, South Carolina, criminalizes the broadcasting of "obscene, profane or vulgar language from any commercial property." From 7:01 a.m. to 10:59 p.m., broadcasts of obscene, profane, or vulgar sounds cannot exceed 30 decibels; from 11:00 p.m. to 7:00 a.m., they cannot exceed 50 decibels. Violations of the ordinance are punishable by fines and imprisonment of up to 30 days. A local bar owner sued the city and local officials after he was warned of violating the law. The plaintiff alleged that the ordinance unlawfully restricted his speech in violation of the First Amendment. The district court granted the plaintiff's request to enjoin the ordinance in part. It found that the provisions restricting "obscene" and "vulgar" language were constitutional, because they only applied to speech that would rise to the level of obscenity under *Miller v. California*, 413 U.S. 15 (1973) (defining obscenity under the First Amendment and recognizing it as unprotected speech). As to the ordinance's restriction on "profane" speech, the district court agreed with the plaintiff that it was unconstitutional and ordered the city refrain from enforcing it. The plaintiff appealed, arguing that the district court erred by failing to also enjoin enforcement of the restriction on "vulgar" speech. A unanimous panel of the Fourth Circuit agreed.

Under the ordinance, vulgar speech is defined as "making explicit and offensive reference to sex, male genitalia, female genitalia or bodily functions." *Moshoures* Slip op. at 7 (internal citation omitted). Unlike the definition of "obscene" speech in the ordinance (which tracks the *Miller* definition of obscenity exactly), the definition of "vulgar" speech is broader than "obscene" speech and lacks constitutional carve outs for offensive but constitutional speech, such as offensive speech with "serious literary, artistic, political, or scientific value." *Miller* at 24. The court noted that, under the city's definition of vulgar speech, the hip-hop album "*As Nasty as They Wanna Be*" by 2 Live Crew would qualify, based on the

album's explicit references to sex and genitalia. So too would the popular bumper sticker depicting the comic book character Calvin of the *Calvin & Hobbes* series urinating on various logos, as it depicts a "bodily function." These examples illustrate that "vulgar" speech does not necessarily rise to the level of constitutionally obscene speech, "because they do not appeal to 'prurient' interests or depict 'sexual conduct.'" *Moshoures* Slip op. at 10. (citation omitted). The ordinance's prohibition on "vulgar" speech therefore sweeps in some amount of speech protected under the First Amendment.

The court ultimately concluded that the restriction on vulgar speech violates the First Amendment. As a content-based restriction on speech, the city had the burden to demonstrate that its restriction is narrowly tailored and serves compelling governmental interests. It could not do so here. Protection of minors and the public is a valid governmental interest, as is the interest in preservation of the character of the neighborhood. But the prohibition here was both overly broad, sweeping in things like musical lyrics, and too narrow, in that the City could achieve its stated goals by issuing a content-neutral ban on noise levels across the board at certain times of the day. In the words of the court:

Policymakers may impose generally applicable time, place, and manner restrictions—including limits on the use of amplified sound—without triggering strict scrutiny so long as they do so 'in a evenhanded, content-neutral manner.' What the city may not do is single out a subset of constitutionally protected speech for special disfavored treatment in public spaces because some (or even most) citizens would prefer not to hear it. *Id.* at 18 (internal citations omitted).

Thus, the judgment of the district court finding the prohibition on vulgar speech permissible was reversed and the matter was remanded for additional proceedings.

[Somers. v. Devine](#), ___ F.4th ___, 2025 WL 889762 (Mar. 24, 2025). During the COVID-19 pandemic, Maryland issued emergency regulations that generally required people to wear a mask at schools and school facilities, subject to several exemptions. In February of 2022, the plaintiff arrived at a school administration building to attend a meeting of the local Board of Education. When an officer met her outside of the meeting room and informed her of the mask requirement, the plaintiff claimed to have medical documentation of a physical or mental condition precluding the safe use of a mask (which was one of the listed exemptions to the masking requirement). Upon request, she produced a letter from a nurse practitioner dated eight months earlier. The letter documented that the plaintiff had reported a history of depression and anxiety and had reported having trouble wearing a mask due to those conditions. The officer conferred with a school administrator and determined the note was not sufficient to meet the mask exemption, since it seemed only to report what the plaintiff had told the nurse practitioner and did not have any specific diagnostic information from the clinician. The plaintiff was therefore asked to view the meeting from the lobby of the building over a livestream. She complained to the officer about the "muzzle" requirement but ultimately sat in the lobby as directed.

During the meeting, the viewers from the lobby began making noise that could be heard inside the meeting room. An officer left the meeting and told the people in the lobby to keep the noise down because it was disruptive to the conduct of the meeting. The plaintiff said, "No." The officer then repeatedly asked the plaintiff to leave, and she again refused. The officer finally cautioned her that she would be jailed if she refused to leave, to which the plaintiff responded that she was "peacefully refusing

to leave.” The officer began attempting to place the plaintiff under arrest, but she refused to stand up from her chair. The officer explained that she was resisting arrest, but the plaintiff told the officer he would have to lift her from the chair to arrest her. The officer obliged, which resulted in the plaintiff falling onto her back on the floor. The officer then instructed the woman to roll over so he could handcuff her. The plaintiff once more refused to comply. The officer forcibly rolled the plaintiff over, pulled her hands behind her back, and pressed into her back for around one minute to obtain control of her. The plaintiff complained several times that the officer was hurting her but later admitted to another officer that she had not been injured during the encounter.

The plaintiff’s behavior continued at the courthouse, where she was also required to wear a mask and where she again refused to do so. When an officer placed a mask on her face, she immediately moved it below her mouth and nose. An officer attempted to reposition the mask, and the plaintiff jerked away, eventually sitting down on the floor. A court official appeared at this point and informed the plaintiff that she could wear a mask and appear at her hearing, or the hearing would be conducted over the phone. She agreed to wear a mask at that point. The plaintiff was charged with trespassing on school property, resisting arrest, disturbing the peace, failure to follow a lawful order, and disturbing school activities. She was convicted of resisting and failure to follow a lawful order in district court only. On appeal to the circuit court, she was ultimately acquitted of those offenses as well. The plaintiff then sued the officers, the town, the county, various school officials, and the local board of education, asserting First Amendment claims for denial of free speech, denial of the right to assemble, and retaliatory arrest, as well as Fourth Amendment claims for unlawful arrest, excessive force, and malicious prosecution. The district court dismissed the claims against all the defendants except those against the arresting officer. As to the remaining officer-defendant, the district court granted summary judgment on his behalf, finding that he was entitled to qualified immunity. The plaintiff appealed that decision as to the retaliatory arrest, unlawful arrest, excessive force, and malicious prosecution claims only.

The Fourth Circuit affirmed. As to the claims for retaliatory arrest, unlawful arrest, and malicious prosecution, the officer had probable cause to arrest the plaintiff for disobeying the lawful order to keep the noise down. The officer was entitled to enforce a content-neutral time, place, and manner restriction to preserve order so the board meeting could proceed. When the plaintiff refused to lower her volume and refused to leave the building when instructed, the officer was justified in placing her under arrest. “[T]he plaintiff’s direct disobedience to an order first to keep the noise down and then to leave the premises is fatal to her claim[s].” *Somers* Slip op. at 13. Thus, the district court properly determined that the officer was entitled to qualified immunity for these claims.

Regarding the excessive force claim, the officer’s minimal use of force here was reasonable and in direct response to the plaintiff’s obstinate behavior. The plaintiff refused to leave when asked, refused to stand up when asked, told the officer he would have to lift her from the chair, and refused to roll over once she was on the ground. Likewise, the interaction between the two at the courthouse was prompted by her own actions. “Viewed in their totality, these events are not an example of excessive force.” *Id.* at 15. That conclusion was reinforced by the complaint’s lack of any allegation of injury. Here too, the officer was entitled to qualified immunity.

The district court’s grant of summary judgment to the officer was therefore affirmed in all respects.

