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Case Summaries: Fourth Circuit Court of Appeals (May 1, 5, & 7, 2026)

District court correctly found that the Sixth Amendment right to a jury trial did not apply to a petty offense

U.S. v. Lefemine, 174 F.4th 454 (May 1, 2026). The defendant was protesting at a Planned Parenthood clinic and blocked access to the facility by sitting in front of the entrance. He was charged in the District of South Carolina with violating the Freedom of Access to Clinic Entrances Act ("FACE Act") under 18 U.S.C. 248. While the defendant was initially charged with a version of the offense carrying a potential penalty of up to one year in prison, the government eventually proceeded on a reduced charge of nonviolent physical obstruction to a healthcare facility. This offense carried a maximum possible punishment of six-month imprisonment and a fine of up to a $10,000. The defendant requested a jury trial before the magistrate and refused to allow the magistrate to try his case as a misdemeanor. The district court rejected the defendant's request for a jury trial and convicted the defendant following a bench trial. He was fined $1,000 and sentenced to 60 days in custody. The defendant appealed, arguing that his request for a jury trial should have been granted.

Under *Blanton v. City of N. Las Vegas*, 489 U.S. 538, 541 (1989), the Sixth Amendment guarantee of a jury trial in criminal cases is limited to serious offenses. The primary factor in determining whether an offense qualifies as serious is the maximum penalty for the crime. Offenses carrying a potential sentence of six months' imprisonment or less are presumptively considered petty and not serious. *Lewis v. U.S.*, 518 U.S. 322, 326 (1996). A defendant may attempt to show that a presumptively petty offense should be deemed serious when the potential prison term and other penalties attached to the offense are so harsh as to reflect an intent by the legislature to treat the crime as serious, but defeating that presumption is "rare." *Blanton* at 543.

Here, the defendant argued that the original indictment in his case charged a serious offense, thus entitling him to a jury determination of guilt. He pointed to the fact that the government never sought to amend the indictment. The court rejected this argument. The only change to the original indictment was to remove a reference to a subsection, which made it consistent with the penalty sought by the government in the case. This change did not require resubmitting the indictment to the grand jury. The defendant was sufficiently on notice of the charge and the potential penalty, as his counsel expressly agreed to the amended penalty sheet submitted by the government.

The defendant also noted that trial testimony referred to violence and argued that this implicated the more serious version of the charged offense. Here, too, the court disagreed. "[T]rial testimony cannot supplant the actual amendments made to the charging documents. The crux of any analysis of the constitutional right to a jury trial is on the 'maximum authorized period of incarceration.'" *Lefemine* Slip op. at 10 (internal citation omitted). Because the defendant here was only subject to a maximum sentence of up to six months, there was no genuine confusion over the amended indictment or the penalties faced by the defendant.

That the penalties under the FACE Act exceed the statutory definition of a petty offense under 18 U.S.C. 19 also did not render the offense serious within the meaning of the Sixth Amendment right to a jury. Several other circuits have considered the seriousness of this version of the offense and all concluded that the offense was petty, despite the potential fine being higher that what is statutorily authorized in 18 U.S.C. 19. A majority of the panel of the Fourth Circuit agreed and affirmed the district court's decision to deny the defendant a jury trial in the matter.

Judge Rushing dissented and would have found that the defendant was improperly denied the right to a jury trial.

(1) Where defendant's conduct of possessing unregistered gun silencers was clearly covered by the relevant statute, his vagueness challenge failed; (2) Because silencers are regulated through a "shall-issue" permitting scheme, the defendant's Second Amendment challenge also failed under circuit precedent

U.S. v. Speed, 175 F.4th 272 (May 5, 2026) The defendant was prosecuted in the Eastern District of Virginia for possession of unregistered gun silencers under the 26 U.S.C. 5845(a)(7). Under the statute, a silencer is any device meant to quiet or silence a gunshot, regardless of whether it is operable. The defendant here possessed unregistered "solvent traps," which are normally used for cleaning a gun but are capable of being modified into a silencer. Trial evidence showed that defendant had explained to an undercover FBI agent that he knew about this potential modification, intended to make the modification, and intended to use the silenced guns once the silencers were created from the solvent traps. While the defendant lacked the drill necessary to complete the modification at the time of his arrest, there was ample evidence that the defendant possessed the devices with intent to convert them to silencers. He was convicted by a jury and appealed, arguing that the definition of silencers is unconstitutionally vague and that his right to possess a silencer was protected by the Second Amendment, among other arguments.

The defendant complained that the government's definition of a silencer would render all types of regular household items illegal and argued that his motion to dismiss for vagueness should have been granted. The court disagreed. While the reach of the prohibition on unregistered silencers may theoretically extend beyond what could reasonably be considered a silencer, the devices at issue here were "clearly proscribed" by the law. "And when 'a law clearly prohibits a defendant's conduct, the defendant cannot challenge, and a court cannot examine, whether the law may be vague for other hypothetical defendants." *Speed* Slip op. at 20-21 (internal citation omitted). The district court therefore correctly denied the defendant's motion to dismiss for vagueness.

Regarding the defendant's Second Amendment challenge, the court declined to decide whether silencers are "arms" within the meaning of the Second Amendment. The relevant provisions of the National Firearms Act ("NFA") require only that silencers be registered with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"). The registration scheme is a mandatory, shall-issue permitting scheme, where the ATF lacks discretion to deny a permit to any person who meets the statutory criteria. The Fourth Circuit has held that such "shall-issue" permitting schemes are presumptively constitutional under the Second Amendment. *Maryland Shall Issue, Inc. v. Moore*, 116 F.4th 21 (4th Cir. 2024). The defendant here made no argument that this regulatory scheme operated to unduly delay or otherwise violate his Second Amendment rights, and this was fatal to his constitutional claim. "By presenting no argument on the subject, Speed has simply not carried his burden of showing that the NFA's presumptively constitutional shall-issue permitting requirements are ‘so abusive as to ‘infringe’ the Second Amendment right under step one of the *Bruen* framework. *Speed* Slip op. at 26 (internal citations omitted).

Other challenges to the sufficiency of the evidence and the jury instructions were likewise rejected, and the judgment of the district court was therefore affirmed.

Judge Wilkinson concurred and wrote separately to express his view that silencers are not protected under the Second Amendment.

Judge Richardson also concurred separately. He noted that, while he was bound by circuit precedent to reject the defendant’s Second Amendment challenge, he believed that precedent was inconsistent with relevant U.S. Supreme Court case law and the Second Amendment.

Defendant was not deliberately indifferent to the risk of sexual assault by one of its officers; grant of summary judgment to the Town affirmed

Mullen v. Town of Sunset Beach, 175 F.4th 466 (May 7, 2026). The Town of Sunset Beach hired a police officer in 2019. An investigation into the officer’s background largely indicated that he would be a “good hire,” but also revealed some potential warning signs. One former employer stated that the officer’s “temperament needs to be closely monitored” but declined to elaborate when pressed for additional comment. The officer’s psychological exam indicated that he was “suitable” for employment but showed a high risk of integrity problems. The officer’s ex-wife had filed a domestic violence suit against him in 2017, but it was dismissed before adjudication. The officer had initially failed some portions of the Basic Law Enforcement Training exam. Finally, while the officer passed a computerized voice stress exam, the Town was aware that another law enforcement agency had declined to hire him following a polygraph exam.

In 2020, the plaintiff was stopped by the officer in question for a traffic violation, and he discovered that she lacked a valid driver’s license. In the following months, the plaintiff claimed that the officer repeatedly visited her home, exposed himself to her, and pressured her to have sex with him. According to the plaintiff, she had sex with the officer at least once with the understanding that she would receive leniency for her traffic violations. Later that year, police executed a search warrant for drugs at the plaintiff’s home. The officer in question was present, which disturbed the plaintiff. She stated to the officer during the search that she “got stuff on you.” The officer resigned about two months later. The Town received no formal complaints about the officer during his tenure, but he was repeatedly disciplined internally for speeding, not completing reports, and making inappropriate jokes and comments (including a derogatory comment about a female co-worker’s weight).

The plaintiff reported the allegedly inappropriate sexual contact with the officer to the police department in 2022 and later filed suit against the Town, asserting Fourth and Fourteenth Amendment claims for unconstitutional policies and failure to properly train and oversee its police officers (along with various state tort claims). She also sued the officer individually, but those claims were settled out of court.

During discovery, the Town acknowledged that it had no formal policy against sexual misconduct on duty and did not provide specific training on sexual misconduct to officers, but noted that it was “against policy” for officers to have sex on duty and that officers were expected to avoid behaving in any way that would reflect poorly on the department. Additionally, three other officers had engaged in sexual misconduct before the officer in question was hired and the police chief was aware of these incidents. Unlike the current allegations, however, each of these prior instances of sexual misconduct involved consensual sexual acts.

The district court ultimately granted summary judgment in full to the Town, finding that the Town's lack of policies and training for officers on sexual misconduct were not the cause of the plaintiff's injuries. On appeal, a unanimous panel of the Fourth Circuit agreed.

A municipality's liability is limited to situations where the policies or practices of the municipality cause constitutional violations. Such liability may arise from an omission, such as failure to properly train employees or failure to institute policies to prevent constitutional violations, but the plaintiff bears the burden in those situations of showing that the municipality acted with "deliberate indifference . . . to the rights of citizens." *Lytle v. Doyle*, 326 F.3d 463, 471 (4th Cir. 2003). This is a high standard that requires proof that the municipality "(1) knew or should have known that their failure to act was likely to result in constitutional injury, and (2) disregarded that risk." *Shaw v. Stroud*, 13 F.3d 791, 799 (4th Cir. 1994). That standard was not met on these facts. According to the court:

> The district court held, and we agree, that no facts in the record show that Chief Klamar or any other individual with policymaking authority knew of a substantial risk that sexual assaults likely would be committed by Sunset Beach officers while on duty. The only prior incidents identified by [the plaintiff] involved officers engaged in consensual sexual relations while on duty. . . Because those prior incidents did not involve coercion or abuse of authority to compel sexual activity, they did not place policymakers on notice of a repeated problem of sexual assault that would require a response by those policymakers. Without evidence of a pattern of prior similar constitutional violations, Sunset Beach lacked the notice necessary to establish its deliberate indifference to the protection of citizens' constitutional rights. *Mullen* Slip op. at 12.

For similar reasons, the state tort claims were also rejected. The district court's judgment was therefore affirmed in all respects.