

Case Summaries: Fourth Circuit Court of Appeals (Sept. 13, 2023)

Deputies' reliance on apparent authority of estranged wife to consent was reasonable; warrantless entry and brief detention of husband did not violate the Fourth Amendment despite the later determination that the wife's information was untrue

[Armstrong v. Hutcheson](#), 80 F.4th 508 (Sept. 13, 2023). The plaintiff's wife contacted 911 seeking assistance in obtaining personal property from her husband's house. The couple was formally separated with an agreement, the terms of which provided that the husband's house was his separate property. The wife was leasing another home. The wife denied the existence of any "paperwork" about the circumstances of the separation to the dispatcher, instead claiming that she had been suddenly locked out the night before. She acknowledged that the plaintiff had guns within the home but denied that he had used or threatened to use any of the weapons. She also informed the dispatcher that their disagreement was purely verbal. One deputy responded, armed with that information. Upon contacting the woman, one of the deputies determined that the address on her driver's license did not match the husband's home. A second deputy arrived soon thereafter. He was familiar with the couple. Within the last two years, this deputy provided the husband "trespass notices" to give to the wife, notifying her that she was not welcome on the property. The wife told both deputies that the couple was back together and that she was currently residing at the home (which was untrue).

According to the deputies, they knocked on the door of the home and received no response. The woman then cut a hole into the screen door and used a key apparently hidden in the backyard to enter the home with the deputies. The deputies noticed pictures of the wife on the walls of the home. The woman went upstairs to collect her property. The plaintiff was upstairs with his child and immediately began objecting to the presence of his wife and the deputies. He informed the deputies that the couple was separated and divorcing, and that the wife no longer lived in the home. The armed and uniformed deputies did not forcibly restrain the plaintiff but did instruct him to stay with one of the deputies while the wife collected her things. The woman left with some bags of her property. In the aftermath, the plaintiff reported that his passport and a key were missing. The plaintiff sued the deputies in the Western District of Virginia for the warrantless entry into his home and the seizure of his person, arguing that those acts violated the Fourth Amendment. He also brought related state tort claims against the deputies and the Sheriff. The defendants moved for summary judgment on all claims. The district court granted the motion, finding that the deputies' actions were reasonable based on the information known to them at the time of the incident and did not violate the Fourth Amendment.

Under *Georgia v. Randolph*, 547 U.S. 103, 109 (2006), a reasonable but mistaken belief by police that an apparent co-occupant possesses the authority to consent to entry and search of a home does not violate the Fourth Amendment. The determinative question is whether the objective facts known to the officers at the time would support the belief that the consenting person had the authority to consent. *Illinois v. Rodriguez*, 497 U.S. 177, 189 (1990) (internal citation omitted). Where, as was the case here, the factual circumstances are uncontested, the reasonableness of the officers' belief that a person possessed authority to consent is a legal question to be determined by the judge. *Scott v. Harris*, 550 U.S. 372, 381 n.8 (2007). Absent a dispute over material historical facts, "the court must decide, under the

nonmovant's version of the facts, the purely legal issue of whether a constitutional violation has occurred." *Armstrong* Slip op. at 13.

Here, the court determined that the totality of the circumstances supported an objectively reasonable belief that the wife had authority to consent to the police entry. The woman told officers she was married to the plaintiff. She acknowledged a former separation but stated that the parties had resumed their relationship and that she lived in the home. She indicated she had been living in the home the evening before and that she had personal property inside the home. She also stated that some of the cars at the home belonged to her. While none of this was true, the deputies had no reason to doubt her information at the moment. The woman's license showed the same last name as the plaintiff and there were multiple cars on the grounds. While one of the deputies was involved in the trespassing allegations from within the last two years, the passage of time and the representation from the woman that the couple had reconciled undercut the significance of that history. Though the woman's license showed a different address than the plaintiff's home, this was not inconsistent with her story that the couple had separated and later reconciled. That the woman cut a hole in the screen to access the door lock likewise cut both ways—it was consistent with her story of being locked out and showed that she had access to the housekey. "[This] was not enough to overcome the other evidence that the deputies' conduct was reasonable." *Id.* at 16. As with their entry into the home, the temporary detention of the plaintiff by the deputy was reasonable. While the deputy did seize the man, it was justified by the circumstances and the limited nature of the detention.

The district court properly granted summary judgment to the deputies and the Sheriff for the state tort law claims as well, and its judgment was affirmed in all respects.

Judge Wynn dissented. He agreed with the majority that the reasonableness of the deputies' actions was a legal question in this posture but would have found that the deputies violated the Fourth Amendment and were not entitled to qualified immunity.