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A MONTHLY LEGAL RESOURCE AND COMMENTARY FOR LAW
ENFORCEMENT OFFICERS AND AGENTS

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CASE SUMMARIES

Circuit Courts of Appeal

1st Circuit

United States v. Arnott, 2014 U.S. App. LEXIS 12538 (1st Cir. Me. July 2, 2014)

While conducting a wiretap, police officers intercepted a call between Brichetto and Leavitt, in which Leavitt sought to purchase oxycodone pills. After Brichetto and Leavitt agreed to meet in a parking lot to conduct the transaction, officers set up surveillance. The officers saw Brichetto arrive in a pick-up truck and park next to a car. A man, later identified as Leavitt, got out of the passenger side of the car and got into Brichetto's truck. After a few minutes, Leavitt returned to the car, and both vehicles drove away. The surveillance officers followed the car containing Leavitt. After the officers saw the car roll through a stop sign, they requested a patrol officer conduct a traffic stop. The patrol officer stopped the car and requested identification from the driver, Arnott, and Leavitt, who was in the passenger seat. Leavitt told the officer his name was "William Young," and that he did not have any identification. Arnott, appearing extremely nervous, gave the officer his driver's license, but gave vague answers in response to the officer's questions. The officer ordered Arnott out of the car and conducted a *Terry* frisk for weapons. The officer felt a hard object in Arnott's pocket, which the officer believed was a knife. The officer reached into Arnott's pocket and removed a bag of tightly wrapped pills that Arnott admitted were oxycodone. When the officer asked Arnott if there were any other drugs in the car, Arnott told the officer there was marijuana in the trunk. The officer arrested Arnott and the government indicted him for two drug related offenses.

Arnott filed a motion to suppress the oxycodone pills, arguing the *Terry* frisk was unlawful because the officer did not have reasonable suspicion to believe he was armed and dangerous. Arnott also argued his incriminating statements should have been suppressed because the officer failed to advise him of his *Miranda* rights.

The court disagreed. After speaking with the surveillance officers, the patrol officer knew it was likely the occupants of the car had just completed a drug transaction. In addition, when questioned by the officer Arnott appeared extremely nervous and could barely hold onto his driver's license because his hands were shaking so badly. Finally, the court commented, "the connection between drugs and violence is legendary." Consequently, the court found the totality of the circumstances supported reasonable suspicion to believe Arnott might be armed; therefore, the *Terry* frisk was justified.

The court further held the seizure of the oxycodone pills was reasonable. After the officer felt a hard object he believed was knife, the officer was allowed to remove that object from Arnott's pocket. Even though the hard object turned out to be tightly packaged oxycodone pills and not a knife, contraband discovered during a lawful *Terry* frisk is not subject to suppression.

Next, the court held the officer's questions concerning the presence of other drugs were within the scope of the *Terry* stop because they related to the discovery of the oxycodone pills.

Finally, the court held Arnott was not in custody for *Miranda* purposes when he made the incriminating statements. During the brief period of questioning, prior to arrest, Arnott was on a public roadway, being questioned by a single officer who made no show of force.

Click [HERE](#) for the court's opinion.

7th Circuit

United States v. Burgess, 2014 U.S. App. LEXIS 13774 (7th Cir. Ill. July 17, 2014)

At approximately 10:45 p.m., numerous 911 callers reported hearing five to nine gunshots in their neighborhood. Based on these reports, police officers were dispatched to the intersection of Wabansia and Karlov Avenues. Less than two minutes later, the dispatcher told the officers additional callers had reported shots had been fired from a black car traveling south on Karlov Avenue. While responding to the call, two officers saw a black car driving away from the area where the gunshots had been reported. The officers stopped the black car approximately one mile from the intersection of Wabansia and Karlov Avenues. During the stop, the officers found a revolver, with five of its six rounds spent, on the seat where Burgess had been sitting. Burgess was arrested for being a felon in possession of a firearm. Just over four minutes elapsed from the initial dispatch about the gunshots until the officers arrested Burgess.

Burgess argued the revolver should have been suppressed because the officers did not have reasonable suspicion to justify the traffic stop.

The court disagreed. First, over the course of a few minutes, numerous 911 callers independently reported gunshots in the same area. The court noted that corroboration from multiple sources describing the general area and nature of the same crime can be considered reliable and support a finding of reasonable suspicion. Second, some of the 911 callers reported the shots were fired from a black car traveling on Karlov Avenue. When the officers saw a black car, two or three minutes later, drive past them, away from the area where the shots were fired, it was reasonable for the officers to believe the black car was involved in the shooting. As a result, the officers had reasonable suspicion to conduct a traffic stop on the black car.

Click [HERE](#) for the court's opinion.

8th Circuit

United States v. Hayden, 2014 U.S. App. LEXIS 13512 (8th Cir. Mo. July 16, 2014)

Two police officers saw two men standing near a vacant house in a high-crime area at approximately 9:00 p.m. The officers saw one man looking up and down the street while the second man walked closer to the home and looked in a window. The officers were told before their shift there had been an increase in burglaries and robberies involving weapons in the vicinity. When the officers pulled their vehicle next to the men, one of the officers got out of the car, shined his flashlight on the men and said, "Police." One of the men later identified as Hayden turned away from the officer and put his hand inside his jacket pocket. The officer told Hayden to remove his hand from his pocket and Hayden complied. The officer frisked Hayden and found a loaded handgun in Hayden's jacket pocket. The government indicted Hayden for being a felon in possession of a firearm.

Hayden argued the handgun should have been suppressed because the officers did not have reasonable suspicion to justify a *Terry* stop.

The court disagreed. First, the court held Hayden was not seized for *Fourth Amendment* purposes when the officer got out of his car, shined his flashlight on Hayden and said “Police.” The court found the officer pulled his vehicle next to Hayden, while the other officer identified himself as a police officer. At no time did the officers impede Hayden’s freedom of movement, touch him or display their weapons. The court ruled identifying oneself as “Police” does not effect a seizure of an individual who stops to listen or talk, as self-identification is not a command to stop.

The court held the officer seized Hayden after Hayden complied with the officer’s command to remove his hand from his jacket pocket. However, by this time, the court found the officers had reasonable suspicion to conduct a *Terry* stop as the officers had reasonable suspicion Hayden was about to commit a burglary. First, it was late at night, and the officers knew there had been an increase in burglaries in the area. Second, the officers knew from experience it was unusual to find people on the street after dark in this particular high-crime area. Third, based on their actions, Hayden and the other man appeared to be casing the house for burglary. Finally, when the officers approached, Hayden turned away from them and reached into his jacket pocket, as if he were reaching for a weapon.

Click [HERE](#) for the court’s opinion.

Williams v. Decker, 2014 U.S. App. LEXIS 13727 (8th Cir. Mo. July 18, 2014)

While conducting motorcycle training in the parking lot of a city park, three police officers approached a car containing two men that was parked diagonally across two parking spaces in their training area. One of the officers saw the driver drinking from a container wrapped in a paper bag and both men upon seeing the officers began moving around while keeping their hands from the officers’ view. The officers drew their firearms and ordered both men to show their hands, but neither immediately complied. The officers removed the men from the car and handcuffed them. The officers discovered two containers of beer and a firearm in the glove compartment. After learning there were no outstanding warrants for Porter, the passenger, the officers allowed him to leave. However, the officers learned from their dispatcher that Williams, the driver, had a felony conviction. After twice confirming Williams’ conviction with the dispatcher, the officers arrested him for unlawful possession of a firearm. Approximately one-hour into the stop, the officers discovered Williams had pled guilty to a misdemeanor and released him. Williams and Porter sued the officers, claiming the officers violated the *Fourth Amendment* by exceeding the scope of a *Terry* stop.

The court held the officers were entitled to qualified immunity. First, the officers’ observations of what they believed to be alcohol consumption, combined with the errant parking of Williams’ car established reasonable suspicion that Williams was operating a vehicle while intoxicated. Second, the court held the officers acted reasonably when they drew their weapons, handcuffed Williams and Porter, and removed the gun from the car. Finally, the court held the officers had probable cause to arrest Williams, although they ended up releasing him. The officers arrested Williams based on information from a police dispatcher, which they confirmed twice. The court found it was objectively reasonable for the officers to rely upon Williams’ criminal history as reported and confirmed to them by a police dispatcher.

Click [HERE](#) for the court’s opinion.

Gladden v. Richbourg, 2014 U.S. App. LEXIS 13959 (8th Cir. Ark. July 23, 2014)

Gladden died of hypothermia after two police officers transported him from a restaurant to an isolated off-ramp outside the city. Gladden had asked the officers for a ride to his sister's house in the next county, but the officers instead left Gladden at the county line, which marked the end of their jurisdiction, and told Gladden to seek assistance from the guard shack of a nearby factory. Gladden's estate sued the officers and their chief for a variety of constitutional and state law torts.

The court affirmed the district court, which granted qualified immunity to the officers, official immunity to the officers and the chief, and dismissed the state-law claims.

The court noted private individuals generally do not have a constitutional right to police assistance. However, the court recognized a person might be constitutionally entitled to police assistance when in custody or when placed in a position of danger by a police officer. Here, the court ruled that neither of these special relationships existed. First, Gladden was not in custody because he freely accepted the ride to the county line. The officers were attempting to do Gladden a favor and at no point during the trip would a reasonable person have believed that he was not free to leave the officers' presence. Second, Gladden's mild signs of intoxication were not enough to alert the officers to the possibility that Gladden might not be able to make decisions for himself and might not be able to find his way to the guard shack, which was a short distance from where the officers left him.

Click [HERE](#) for the court's opinion.

United States v. Williams, 2014 U.S. App. LEXIS 14159 (8th Cir. Minn. July 25, 2014)

After federal agents identified Williams as a potential purchaser of child pornography, approximately seven armed and uniformed agents executed a search warrant at his house. When no one answered their knock, agents used a battering ram to enter. Williams arrived home while the search was ongoing and agreed to speak with one of the agents. The agent told Williams he was not under arrest, and that Williams' decision whether to speak with law enforcement was voluntary. Williams and the agent sat in the living room, ten to fifteen feet from the door and their conversation lasted thirty to forty-five minutes. During this time, the agent did not raise his voice, make any threats or promises to Williams or use deception. In addition, Williams was not restrained and he was allowed to use the restroom and get a glass of water. Williams admitted to viewing child pornography on the internet and gave the agent consent to retrieve his laptop computer from his car. The agent did not advise Williams of his *Miranda* rights during the interview. At the conclusion of the search, the agent did not arrest Williams. The government later indicted Williams for receipt and distribution of child pornography.

The district court held Williams was in custody for *Miranda* purposes and suppressed Williams' incriminating statements and his laptop computer. The government appealed.

The Eighth Circuit Court of Appeals reversed, holding Williams was not in custody for *Miranda* purposes. First, when the agent asked Williams if he would agree to answer some questions, the agent told Williams that he was not under arrest. Second, the agent questioned Williams in his own home near the front door. Third, the agent did not physically restrain or handcuff Williams, and Williams was allowed to get a glass of water and move unsupervised through his home. Fourth, only one agent questioned Williams and the interview lasted only short time. Finally, the agent did not use deceptive strategy or threats and the agent did not arrest Williams at the end of the interview. Considering the totality of the circumstances, the court concluded a reasonable person in Williams' position would

have felt that he was free to terminate the interview with the agent and leave; therefore, Williams was not in custody for *Miranda* purposes.

The court further held Williams' statements to the agent were voluntary as well as Williams' consent to search.

Click [HERE](#) for the court's opinion.

United States v. Salgado, 2014 U.S. App. LEXIS 14633 (8th Cir. S.D. July 31, 2014)

At approximately 1:40 a.m., a state trooper saw a disabled vehicle on the side of the road. The trooper parked behind the vehicle and got out of his patrol car to assist the occupants. As the trooper approached, Salgado and another man immediately walked from the front of their vehicle and told the trooper they did not need his assistance. Based on his prior experience, the trooper found this behavior to be unusual. When the trooper shined his flashlight on the back seat of the vehicle, he saw a third person, and a jacket embroidered with a large marijuana leaf partially covering some electronic equipment. Salgado told the trooper he had been driving the vehicle, but he could not produce a driver's license. The trooper tried to conduct a record check, but no records in the state databases of South Dakota or Minnesota matched the information provided by Salgado. When the trooper asked Salgado about the other occupants in the vehicle, Salgado was only able to identify one of the passengers as "Homie." While the trooper continued to try to identify Salgado, he asked Salgado for consent to search the vehicle for drugs. After Salgado refused to consent at 1:55 a.m., the trooper called an off-duty trooper, who lived forty-five miles away, and asked him to bring his drug detection dog to the scene. Approximately fifty minutes later, the off-duty trooper arrived and the drug detection dog alerted to the presence of drugs in Salgado's vehicle. The officer searched Salgado's vehicle and found methamphetamine, trace amounts of marijuana and a glass pipe. The officers arrested Salgado and the two passengers.

Salgado argued that once he declined the trooper's offer of assistance, the trooper's investigation became an unreasonable seizure under the *Fourth Amendment*.

The court disagreed. Once Salgado identified himself as the driver of the vehicle and admitted he did not have a driver's license, the trooper had probable cause to issue Salgado a citation for a traffic violation. At this point, the trooper was allowed to detain Salgado in order to write the citation, confirm Salgado's identity and check Salgado's criminal history. During this time, the trooper could not match the name and date of birth provided by Salgado to the state databases, and the trooper saw a jacket with an embroidered marijuana leaf on it inside Salgado's vehicle. In addition, the trooper found it unusual that a potentially stranded motorist so adamantly declined his offer for assistance and was only able to identify one of his passengers as "Homie." Consequently, the court concluded these facts provided the trooper reasonable suspicion to detain Salgado.

The court further held Salgado's nearly one-hour detention until the off-duty trooper arrived with the drug detection dog was reasonable. The court noted the trooper first tried to locate an officer with a dog that was nearby, and then when that failed, the officer attempted to obtain Salgado's consent to search. The court concluded the remote location attributed to the delay, not a lack of diligence or unnecessary delay by the trooper.

Click [HERE](#) for the court's opinion.

9th Circuit

United States v. Edwards, 2014 U.S. App. LEXIS 14817 (9th Cir. Cal. July 31, 2014)

An unidentified man called 911 and reported a “young black male” at the corner of West Boulevard and Hyde Park Boulevard was shooting at passing cars, including the caller’s car. The caller also reported the shooter was between 5 feet 7 inches and 5 feet 9 inches in height, approximately 19 or 20 years old, and wearing a black shirt and gray pants. Finally, the caller reported the shooter had a black handgun and was entering “Penny Pincher’s Liquor” store. Two police officers responded within five minutes and saw a man who matched the description, later identified as Edwards, approximately 75 feet from the liquor store. The only other person the officers saw in the area was an Hispanic male wearing a black and green heavy jacket and blue jeans. After two additional officers arrived, the four officers, with weapons drawn, ordered the two men to their knees and handcuffed them. One of the officers frisked Edwards and felt a hard object above Edward’s right knee, inside the pant leg. The officer pulled on Edwards’ pants and a silver .22 caliber revolver fell out onto the ground. The government indicted Edwards for being a felon in possession of a firearm.

Edwards argued the firearm should have been suppressed, claiming the initial stop amounted to an arrest without probable cause. Edwards further argued if the initial stop was not an arrest, the anonymous 911 call did not provide the officers reasonable suspicion to detain him.

The court disagreed. First, the court held the officers’ actions when they first encountered Edwards were reasonable and did not convert Edwards’ detention into an arrest. Edwards was the only person near the liquor store who fairly matched the description of a man who reportedly had been shooting at passing cars just minutes before the officers arrived. Under these circumstances, the court reasoned, legitimate safety concerns justified the officers’ drawing their weapons, ordering Edwards to his knees and handcuffing him. Second, the court held the information provided by the anonymous 911 caller was sufficiently reliable to provide the officers reasonable suspicion to conduct a *Terry* stop on Edwards. Although he was anonymous, the caller reported firsthand information concerning an ongoing emergency while providing a detailed description of the suspect and location of the incident.

Click [HERE](#) for the court’s opinion.

10th Circuit

Stonecipher v. Valles, 2014 U.S. App. LEXIS 12384 (10th Cir. N.M. July 1, 2014)

Federal agents working in an undercover capacity purchased a firearm and two explosives from Stonecipher. The agents also confirmed Stonecipher bought and sold firearms, gun parts, and ammunition online without having a federal firearms license. In addition, agents discovered that Stonecipher had pleaded guilty in 2007 to a misdemeanor crime of domestic violence in Missouri. The agents learned from Missouri court documents that Stonecipher received a suspended sentence, which required him to serve one year of probation, and that Stonecipher was discharged from probation after serving the one-year term. The agents obtained a report from the National Instant Criminal Background Check System (NICS) that indicated Stonecipher had been convicted of a misdemeanor crime of domestic violence in 2007. The agents also obtained a National Criminal Information Center (NCIC) report that noted Stonecipher’s guilty plea to the Missouri domestic assault charge. However, summary portions of the NICS and NCIC reports indicated that Stonecipher had

“0” convictions. In addition, at the end both reports there was a sentence stating, “Suspended imposition of sentence dispositions are not convictions and are closed record when probation is completed or finally terminated.”

The agents sought legal advice from an Assistant United States Attorney (AUSA) who determined Stonecipher was prohibited from possessing firearms under *18 U.S.C. § 922(g)(9)* which makes it unlawful for anyone convicted of a misdemeanor crime of domestic violence to possess a firearm.

The agents drafted an application for a search warrant for Stonecipher’s house, in which they alleged Stonecipher was likely in violation of *§ 922(g)(9)* based on his 2007 Missouri domestic violence conviction. The search warrant application also claimed Stonecipher was likely in violation of two other federal firearm statutes. The AUSA reviewed and approved the final version of the warrant application, which was submitted to a magistrate judge who issued the search warrant.

Upon arriving at Stonecipher’s house, the agents arrested him. While conducting their search, the agents allowed Stonecipher to show them a letter drafted by his criminal defense attorney concerning the 2007 Missouri domestic violence conviction. The letter stated, in part, that under Missouri law once Stonecipher completed his probation, he would not have a “conviction” for domestic violence on his record. The agents disregarded the letter because it conflicted with the AUSA’s legal advice. The next day, the agents told the AUSA about the letter, but the AUSA advised the agents to proceed with their case. As a result, the agents prepared a criminal complaint, which was filed in federal district court. Five days later, federal prosecutors discovered Stonecipher’s 2007 Missouri conviction did not disqualify him from possessing firearms because under Missouri law a suspended sentence, under the circumstances, did not amount to a conviction.

Stonecipher filed a *Bivens* action against the federal agents claiming a variety of constitutional violations regarding the search of his house and arrest. The district court held the agents were entitled to qualified immunity because they reasonably concluded on the facts available to them that they had probable cause to search Stonecipher’s house, arrest and then file charges against him.

On appeal, Stonecipher argued the agents submitted the search warrant application, in reckless disregard for the truth. Specifically, Stonecipher argued the agents falsely stated Stonecipher had been “convicted” of a misdemeanor crime of domestic violence, while omitting that Stonecipher had received a suspended sentence.

The court of appeals disagreed, holding the agents did not act in reckless disregard for the truth. First, the Missouri court documents established Stonecipher pleaded guilty to misdemeanor domestic violence. Even though the documents showed Stonecipher received a suspended sentence, and that his probation was completed, the documents did not reveal the legal significance of these facts. The court concluded it was reasonable for a non-legally trained officer to assume a conviction and sentence were two separate things, and that the type of sentence would not invalidate a conviction. Second, the court held the NICS and NCIC reports contained conflicting information to the extent that it was reasonable for the agents to believe Stonecipher had been convicted of a misdemeanor crime of domestic violence. Finally, the agents did not act in reckless disregard for the truth when they sought legal advice from the AUSA and provided the AUSA with all the materials he used to make his determination.

The court further held the agents were not required to forego arresting Stonecipher after he gave them the letter from his attorney during the execution of the search warrant. The court stated there was no way to verify the authenticity of the letter, confirm that Stonecipher had completed his probation or

determine the legal implications of a Missouri conviction for the purposes of § 922(g)(9). The court noted the agents acted reasonably by providing Stonecipher's letter to the AUSA.

Click [HERE](#) for the court's opinion.

United States v. Salas, 2014 U.S. App. LEXIS 12387 (10th Cir. Okla. July 1, 2014)

A police officer stopped Salas after the officer saw Salas' car twice cross the fog line on the right side of the highway. After issuing Salas a warning ticket for failure to stay in his lane, the officer returned Salas' documents and told him he was "good to go." Salas thanked the officer for giving him a warning, shook the officer's hand and began to leave. The officer asked Salas if he had time for a few more questions, and Salas replied, "Sure." After Salas denied having drugs in his car, the officer asked if he could search the vehicle. Salas consented to the search. The officer opened the trunk, which contained a suitcase. Inside the suitcase, the officer found approximately twenty pounds of methamphetamine. Salas was charged with possession with intent to distribute methamphetamine.

Salas argued the methamphetamine should have been suppressed because the officer did not have reasonable suspicion or probable cause to stop him. Salas also argued he did not voluntarily give the officer consent to search the car.

The court disagreed. *Okla. Stat. § 11-309* provides that "a vehicle shall be driven as nearly as practicable entirely within a single lane." The Tenth Circuit has held that a single violation of a traffic statute virtually identical to § 11-309 can provide reasonable suspicion to conduct a traffic stop. Here, the district court found that the officer saw Salas' vehicle cross the fog line twice. Consequently, the officer had reasonable suspicion that Salas violated § 11-309 and was justified in conducting a traffic stop.

Next, the officer's dash camera video showed that when the officer asked Salas if he could search the car, Salas replied, "Sure." The officer then asked Salas, "You sure you don't mind?" Salas replied, "No." Salas' relaxed demeanor and lack of physical coercion or intimidating body language or tone by the officer led the court to conclude Salas voluntarily consented to the search of his car.

Click [HERE](#) for the court's opinion.

Leatherwood v. Welker, 2014 U.S. App. LEXIS 12813 (10th Cir. Okla. July 8, 2014)

Leatherwood was convicted of crimes in Oklahoma and placed on probation. Leatherwood's ex-wife called his probation officer, Welker, and told Welker she had personal knowledge that Leatherwood had raped Woods, who was Leatherwood's current girlfriend. Leatherwood's ex-wife also told Welker that Leatherwood might have firearms inside his house and in his truck. The conditions of Leatherwood's probation prohibited him from possessing firearms and committing crimes.

An assistant district attorney forwarded Welker two e-mails he received from a confidential informant. In the emails, the confidential informant relayed information from an anonymous source who claimed personal knowledge that Leatherwood had sent e-mails of a sexual nature to Woods and that Leatherwood had sexual materials in his home. The conditions of Leatherwood's probation prohibited him from possessing pornography or sexually oriented material.

Based on her telephone conversation with Leatherwood's ex-wife and the e-mails from the assistant district attorney, Welker received permission from her supervisor to conduct a warrantless search of Leatherwood's home.

Leatherwood subsequently sued Welker and the other law enforcement officers, claiming the warrantless search of his house violated the *Fourth Amendment*.

The court held Welker and the other law enforcement officers did not violate the *Fourth Amendment* because they had reasonable suspicion Leatherwood violated the conditions of his probation. Individuals on probation have a diminished expectation of privacy, and Oklahoma Department of Corrections policy allows warrantless probation searches when there is reasonable suspicion of a probation violation or crime. Here, the court held the tips received by Welker were sufficiently reliable to establish reasonable suspicion. First, Welker knew the identity of Leatherwood's ex-wife and spoke directly with her on the phone. Second, the ex-wife claimed personal knowledge that Leatherwood committed rape, the offense for which he was serving supervised release, and provided the name of Leatherwood's current girlfriend who was the alleged victim. Third, while the content of the allegations in the e-mails came from an anonymous source, Welker knew the assistant district attorney who forwarded the e-mails to her. Finally, the anonymous source claimed he had access to Leatherwood's house, thereby providing a reliable basis of knowledge for the information contained in the e-mails.

Click [HERE](#) for the court's opinion.

11th Circuit

United States v. Watkins, 2014 U.S. App. LEXIS 14261 (11th Cir. Fla. July 28, 2014)

Watkins agreed to assist police officers in a murder investigation after the body of a seven-year old girl was found in a landfill. During an interview, Watkins told a police officer the victim often visited his house to play online computer games with his grandchildren. As the interview progressed, Watkins admitted he had downloaded and viewed child pornography on his computers. Consequently, Watkins consented to a search of the three computers in his house, but only after the officer told Watkins he was only interested in searching the computers for evidence related to the ongoing murder investigation, not child pornography. However, when the officer went with Watkins to his house to retrieve the computers, Mrs. Watkins, who had joint access to the computers, signed a form consenting to a full search of the three computers. During this time, Watkins was present and did not object when his wife granted consent. The government discovered evidence of child pornography on one of the computers and charged Watkins.

The district court held the search of computers exceeded the scope granted by Watkins' consent because Watkins believed he was only consenting to a search of the computers to find evidence related to the murder investigation. However, the district court held the full search of the computers was within the scope of the consent granted by Mrs. Watkins. As a result, the court concluded the evidence of child pornography was admissible against Watkins.

The Eleventh Circuit Court of Appeals agreed. A person who has common authority over property can consent to a search of that property by police officers. However, if another person with common authority is present and objects to the search, the police may not search the property. In this case, Mrs. Watkins consented to an unlimited search of the computers by the officers. Although Watkins was

present during this time, he did not object nor suggest to his wife that her consent might be limited by a previous agreement he had with the officer. In addition, the court noted Watkins' previous consent to a limited search did not qualify as a "present" objection to his wife's later consent to a broader search.

Click [HERE](#) for the court's opinion.
