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THE  
FEDERAL LAW ENFORCEMENT  
- INFORMER -

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

Welcome to this installment of *The Federal Law Enforcement Informer (The Informer)*. The Legal Training Division of the Federal Law Enforcement Training Centers' Office of Chief Counsel is dedicated to providing law enforcement officers with quality, useful and timely United States Supreme Court and federal Circuit Courts of Appeals reviews, interesting developments in the law, and legal articles written to clarify or highlight various issues. The views expressed in these articles are the opinions of the author and do not necessarily reflect the views of the Federal Law Enforcement Training Centers. *The Informer* is researched and written by members of the Legal Division. You can join *The Informer* Mailing List, and have *The Informer* delivered directly to you via e-mail by clicking on the link below.

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# **The Informer – April 2024**

## **Circuit Courts of Appeals**

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United States v. Frazer: Whether law enforcement had a reasonable suspicion to stop a suspect based on head-long flight and non-compliance with the officer's commands. Further, did law enforcement have a constitutional basis to search a black bag containing a firearm and approximately 100 grams of marijuana that Frazer discarded immediately prior to being apprehended? Frazer moved to suppress the evidence, arguing that the officers lacked reasonable suspicion to stop him and that they needed a warrant to search the bag. The court reviewed the head-long flight factors established by the US Supreme Court in *Illinois v. States v. Wardlow*....pg 4

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United States v. Clayton: Whether the search of a car based on the mobile conveyance exception will overcome the defendant's assertion that an earlier warrant for the car had become stale due to an investigative delay. Also, whether the suspect's assertion that his "body language" was sufficient to constitute a simple, unambiguous statement invoking his right to remain silent. The court reviewed the standards of *Berghuis v. Thompkins* to determine if the right was clearly invoked. ... pg 7

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United States v. Ramirez: Victor Ramirez, was pulled over by police officers for traffic violations. Recognizing Ramirez as a gang member from a previous encounter, one of the officers asked him about his parole status. Ramirez confirmed he was on parole for a firearm-related offense. During the stop, the officers discovered a loaded firearm in Ramirez's car. Ramirez was subsequently indicted for possessing a firearm and ammunition as a felon. The defendant moved to suppress the evidence arguing that the officers unreasonably prolonged the stop by asking about his parole status, which he claimed was unrelated to the traffic stop.... pg 13

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State v. Collins: Whether an arson suspect’s statement is admissible after a “proper” Miranda warning, but with the added proviso that whatever statement he made would remain confidential. Randy Collins was tried and convicted for first-degree arson and criminal conspiracy, following a fire that resulted in the death of a 12-year-old boy. The conviction was based, in part, on Collins' statement to law enforcement, which was obtained during an interview where the officers assured Collins that his statements would remain confidential. Collins appealed his conviction, arguing that his statement to law enforcement was involuntary due to the officers' false assurance of confidentiality... pg 14



## **FLETC Informer Webinar Schedule: May 2024**

**May 2, 2024, 1:00 – 3:00 (EST)** FLETC Behavioral Science Webinar, “The Psychological Effects of Human Trafficking.” This virtual broadcast will focus on the psychological effects of human trafficking on the victims and their families. A panel of leading authorities will discuss best practices for those who seek to identify, locate, and rescue victims of human trafficking. This panel discussion will be hosted by Instructor Rebecca Hicks with the Behavioral Science Division.

The training is no cost. Register for Psychologically Speaking Broadcast at: [Fast \(dhs.gov\)](https://fast.dhs.gov)

**May 15, 2024, 2:30 – 3:30 (EST)** FLETC OCC Informer Webcast Series “**Work Place Searches**” presented by John Besselman, Senior Advisor for Training, Federal Law Enforcement Training Center, Glynco, Georgia.

[Click Here](#)

**May 17, 2024, 10:30 – 11:30 (MST)** FLETC OCC Informer Webcast Series “**Aerial Surveillance and the Fourth Amendment**” presented by Arie Schaap, Attorney Advisor/Senior Instructor, Federal Law Enforcement Training Center, Artesia, New Mexico. In this session we will discuss when aerial surveillance of an individual’s property constitutes a search under the Fourth Amendment and explore legal issues relating to the technology employed and the duration of the surveillance.

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**June 5 – 7, 2024**, FLETC OCC (Charleston, S.C.) will present the Continuing Legal Education Training Program Special Agent (CLETP\_SA). The course provides refresher training to field agents in legal subject areas covering the 4th, 5th, and 6th Amendments, use of force, electronic law and evidence, civil liability, federal court procedures and recent statutes and rules changes. Instruction is updated by a review of the most recent court decisions and legislative changes to the laws that are applicable to law enforcement agents. This training can prevent evidence admissibility problems, increase investigative skills in gathering evidence, and help agents avoid being liable for alleged improper conduct. The CLETP\_SA meets the continuing training requirements of various agencies and departments. In-person attendance is required.

For inquiries: [FLETCAdmissions@fletc.dhs.gov](mailto:FLETCAdmissions@fletc.dhs.gov)

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# CASE SUMMARIES

## Circuit Courts of Appeals

### Fourth Circuit

United States v. Frazer, No: 22-4179 (4<sup>th</sup> Cir. 2024)

Montgomery County, MD, Police responded to a reported shooting. While blood was found at the crime scene, no suspects or victims were identified. However, a witness gave a description of a person he believed to be either the shooter or victim. About two weeks later, Officer Brown observed Darryl Frazer and another person named Moore. The second person fit the previous description and wore a large bandage on his upper arm. Both Frazer and Moore wore small black bags strapped across their bodies.

After a call for back-up, Officers Jacobs and Halko arrived in marked vehicles. Both Frazer and Moore were standing in an apartment breezeway. Upon seeing the uniformed officers, Frazer and Moore both exited the breezeway and began to run away from the officers, through the apartment complex. Officers Jacobs and Halko pursued. After a couple of minutes of pursuit — with aid from others in the neighborhood — Frazer and Moore were found in an open stairwell of one of the three-story apartment buildings. As Officer Jacobs moved up the stairwell, he repeatedly yelled “Stop!” to Frazer and Moore. They did not stop, however, but responded by climbing over the second-story railing of the stairwell. Moore actually dropped from the second-story railing to the ground and continued to run away. Officer Jacobs started back down the stairwell and ordered Frazer — who was hanging on to the second-story railing — to “get down here.” Jacobs threatened to use his taser on Frazer if he failed to comply. Frazer then climbed back over the railing of the stairwell and began to descend. Officer Jacobs went up the stairs to meet Frazer and ordered him to drop his bag. Instead of dropping his black bag, Frazer turned and walked away from Officer Jacobs. Frazer went directly to the second-story railing where he had been dangling, took off his black bag, and threw it at least 40 feet away, into the center of the apartment courtyard, several feet below Frazer and Jacobs. After

throwing his bag away, Frazer complied with Officer Jacobs's command and got on the ground. Frazer was then placed in handcuffs. Officer Brown — who arrived at the stairwell shortly before Frazer was handcuffed— recovered the black bag Frazer had thrown away. When Brown picked up the bag, he felt the frame of a handgun. He opened the bag and confirmed that it contained a firearm — a loaded semi-automatic 9mm pistol. Brown also found that the bag contained approximately 100 grams of marijuana, in multiple plastic bags.

### Court's Analysis:

First, Frazer maintains that the district court erred when it ruled that Officer Jacobs had a reasonable suspicion of wrongdoing when he stopped Frazer in the stairwell of the apartment complex. Although the Fourth Amendment protects the right of the people to be secure in their persons . . . against unreasonable searches and seizures, it is settled that an officer may conduct a brief investigatory stop where the officer has reasonable suspicion that criminal activity may be afoot. In evaluating whether an officer had reasonable suspicion, the courts must consider the “totality of the circumstances . . . known to the officers at the time of the stop.

The guiding decision on the issue is the US Supreme Court's opinion in *Illinois v. Wardlow*, recognizing that a person's “headlong” and “unprovoked” flight upon seeing a police officer goes a long way toward establishing reasonable suspicion that the fleeing person was involved in criminal activity. *Wardlow* reasoned that headlong flight “is the consummate act of evasion: It is not necessarily indicative of wrongdoing, but it is certainly suggestive of such.” The Court discussed the concept of investigatory stops and acknowledged that, although there may be innocent reasons to flee from the authorities, its precedent “accepts the risk that officers may stop innocent people” and that an investigatory stop empowers police officers to “detain the individuals to resolve the ambiguity” between innocent and suspicious actors.

“*Wardlow* Factors” to consider:

- Time of day,
- Number of people in the area,
- Character of the neighborhood,
- Whether the officer was in uniform,
- The way the runner was dressed,

Direction and speed of the flight,  
Whether the person's behavior was otherwise unusual.

Frazer and Moore fled immediately when the County PD officers arrived. Their flight was not by way of a brisk walk, it was a headlong run. The officers had not said anything to either Frazer or Moore before they fled. The mere arrival of the two uniformed police officers caused the head long flight. And when their flight began, the officers did not have any weapons or tasers drawn. Frazer and Moore fled together, while others in the nearby community did not flee.

During his flight, Frazer repeatedly ignored the commands of Officer Jacobs. Although running away from police officers can be a consummate act of evasion, other evasive acts, such as disobeying commands and instructions of such officers, can also factor into a reasonable suspicion analysis. Here, Frazer repeatedly ignored Officer Jacobs's commands to stop, even when Jacobs was only a few feet away. Importantly, Frazer did not merely ignore the commands of Jacobs and otherwise normally go about his day. Rather, Frazer responded with stark evasive actions such as climbing up and over the railing, hanging onto the railing, and moving up and down the stairs. And Frazer's final evasive action — throwing his black bag more than 40 feet down into the apartment courtyard, despite repeated orders from Jacobs to drop the bag — also substantiates an objective suspicion that criminal activity was likely afoot.

Further, the court was satisfied, that Frazer had by then voluntarily abandoned his bag and that he lacked any Fourth Amendment standing to challenge the search. In this situation, the objective evidence made it entirely reasonable for the police officers to believe that the black bag Frazer threw away was being voluntarily abandoned. Seconds before acquiescing to Officer Jacobs's commands — and when it became clear that he was about to be apprehended — Frazer threw his black bag over the stairwell into a public place more than 40 feet away. And this act of throwing away the bag directly contravened Officer Jacobs's command for him to "drop the bag."

For the Court's Opinion... [United States v. Frazer, No. 23-4179 \(4th Cir. 2024\) :: Justia](#)

## **Fifth Circuit**

United States v. Clayton, No.23-30231 (5<sup>th</sup> Cir. 2024)

Courtney D. Clayton was indicted on one count of possession with intent to distribute heroin, fentanyl, and cocaine. As part of a three-month drug trafficking investigation, officers conducted video surveillance of Clayton's home and placed GPS tracking devices on two vehicles associated with him. Based on the surveillance and information from a reliable confidential informant, officers obtained search warrants for Clayton's home and one of his vehicles (the Mercedes). However, before the warrants could be executed, officers observed burglars break into Clayton's home. Believing that evidence of drug trafficking may have been stolen, officers continued their investigation for another two weeks before seeking a new warrant for Clayton's residence. The officers did not renew their search warrant for the vehicle.

Clayton contended that the search warrant of the vehicle had become stale, and that officers did not have probable cause to arrest him. He also argued that the Government failed to show that officers advised him of his constitutional rights pursuant to *Miranda v. Arizona*.

The court found that the search of Clayton's vehicle was proper under the automobile exception to the Fourth Amendment, which allows a warrantless search of a readily mobile vehicle when law enforcement has probable cause to believe the vehicle contains contraband or evidence of a crime. The court also found that Clayton failed to properly invoke his Fifth Amendment right to silence, as his indication through body language that he did not wish to speak to officers did not constitute a "simple, unambiguous statement" invoking his right to remain silent.

Court's Analysis: The Fourth Amendment guarantees individuals the right "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." Government intrusion into those protected areas generally qualifies as a search and requires a warrant supported by probable cause." Therefore, a warrantless search is presumptively unreasonable unless the circumstances fall under an exception to the Fourth Amendment's warrant requirement. Evidence seized in violation of the Constitution—such as evidence unlawfully obtained without a warrant—is subject to suppression. Here, Clayton argues that the search of the Mercedes was improper because the



vehicle was not “on the premises” to be searched. Clayton had exited the premises and driven approximately 250 yards from his house before being stopped by officers preparing to execute the search warrant.

Pursuant to the automobile exception to the Fourth Amendment, a warrantless search of a readily mobile vehicle is permitted when law enforcement has probable cause to believe the vehicle contains contraband or evidence of a crime. Probable cause is determined by examining the totality of the circumstances. The district court found that the search warrant for the home contained sufficient probable cause, a conclusion that Clayton did not challenge on appeal. Many of the same uncontroverted facts that established probable cause to search the home for evidence of drug trafficking also apply to the search of the Mercedes. Those facts include the confidential informant’s specific, detailed statements about Clayton’s drug trafficking activities; the seizure of heroin from the informant; the officers’ surveillance of Clayton’s home and observation of activity suggestive of drug trafficking; a video-recorded incident in which a known drug trafficker visited Clayton at this home. In addition, the record indicates that Clayton frequently used his driveway and carport—places where the Mercedes was often parked—to set up narcotics transactions. While Clayton argued that no officer actually watched him put drugs, money, or cell phones into the Mercedes, and that some of the evidence in the record is arguably somewhat speculative, under the totality of the circumstances—and viewing the evidence in the light most favorable to the Government—the court held that a reasonable person would have believed that evidence of drug trafficking would be present in Clayton’s Mercedes at the time the vehicle stop was effectuated. As a result, the police had probable cause, the automobile exception applied, and the officer’s search of Clayton’s vehicle was not a violation of the Fourth Amendment.

Having decided that the search of Clayton’s Mercedes was proper, the court moved to the constitutionality of denying Clayton’s request to suppress his confession. Under the Fifth Amendment, no person shall be “compelled in any criminal case to be a witness against himself.” Accordingly, a suspect in custody “must be warned prior to any questioning that he has the right to remain silent.” If a suspect makes an incriminating statement during a custodial interrogation prior to receiving his or her Miranda warnings, that statement is generally inadmissible. And, if a suspect invokes his Fifth Amendment right to silence,

that invocation must be “scrupulously honored.” Here, the parties do not dispute that Clayton was in custody and was subjected to an interrogation when he was questioned by law enforcement officers. Clayton’s principal argument is that by asking questions that were likely to elicit an incriminating response, the officers did not “scrupulously” honor Clayton’s invocation of his Fifth Amendment right to silence. ***However, this argument presupposes that Clayton validly invoked his right to remain silent by failing to verbally respond to the officer’s warning and by indicating through body language that he did not wish to speak to officers.*** In *Berghuis v. Thompkins*, the Supreme Court explained that a suspect’s invocation of his right to remain silent must be unambiguous and unequivocal. If a suspect “makes no statement, the police are not required to end the interrogation.” Thus, in order to properly exercise his right to remain silent and “cut off questioning,” a suspect must either “say that he wants to remain silent or that he does not want to talk with the police,” or make a similar “simple, unambiguous statement.” Here, the record does not show that Clayton made a “simple, unambiguous statement” invoking his right to remain silent. Rather, the questioning officer testified that Clayton indicated that he did not want to talk “through body language,” and that he did not remember Clayton saying “any words.” And, to the extent that Clayton did say anything to the officer, the record does not support the contention that whatever was said qualifies as an “unambiguous” and unequivocal invocation of the right to silence. Therefore, Clayton failed to properly invoke his Fifth Amendment right to silence, and the court did not need to consider Clayton’s argument that the officers failed to “scrupulously” honor his assertion of that right. The district court’s decision to deny Clayton’s motion to suppress was proper.

For the Court’s Opinion: [United States v. Clayton, No. 23-30231 \(5th Cir. 2024\)](#)  
:: [Justia](#)

## **Sixth Circuit**

United States v. Lester, No. 22-6077 (6<sup>th</sup> Cir 2024)

The US Marshal’s Fugitive Task Force found Travis Lester staying at a Memphis, TN motel room with his girlfriend, Shebrica Phillips. Already having an arrest warrant, the officers approached the door and knocked/announced. Phillips answered and the officers quickly arrested both Lester and Phillips.

While patting Lester down, an officer found a plastic baggie containing a rocklike substance (later determined to be 4.9 grams of crack cocaine) and \$869 in his pockets. The officer then asked, “Is there anything else on you, any other drugs, anything that would stick or harm me?” Lester responded, “No, just some weed in the room.” Meanwhile, other officers performed a protective sweep of the motel room to ensure no one else was hiding in the room. While they didn’t find anyone, the officers did see a digital scale on the nightstand.

The officers field-tested the rocklike substance, which came back positive for crack cocaine. Based on the crack cocaine, the scale, and Lester’s marijuana admission, the officers secured a warrant to search the room. Their search uncovered a stolen .40 caliber pistol loaded with a high-capacity magazine, a small bag of marijuana, and the scale they’d seen earlier.

The jury convicted Lester and the district court sentenced him to 120 months in prison.

Lester appealed alleging the officers violated his *Miranda* rights when they questioned him before issuing a warning; and his Fourth Amendment rights when searched his motel room before obtaining a warrant.

Analysis: Regarding the defendant’s marijuana admission, the Fifth Amendment provides that “no person . . . shall be compelled in any criminal case to be a witness against himself.” To protect this right, the Supreme Court has held that in certain contexts, police must issue *Miranda* warnings before interrogating a suspect in their custody. Lester argued the arresting officer violated that rule. Before informing Lester of his *Miranda* rights, the officer asked Lester during the pat-down if there was “anything else on you, any other drugs, anything that would stick or harm me.” Lester responded: “No, just some weed in the room.” Lester argues that this unwarned admission and the fruits of that admission—most importantly, the .40 caliber pistol in the motel room—should be suppressed.

The court disagreed finding first, *Miranda* doesn’t apply because *Miranda* only governs “interrogations.” Police questioning isn’t an “interrogation” when an officer asks about information he was already entitled to know through a search incident to arrest. Since the officer had just arrested Lester, the officer inevitably would have discovered any items on Lester’s person. Thus, the officer was entitled to ask about those items. To be sure, Lester responded to

the officer’s question with self-incriminating evidence about something that wasn’t on his person. But an interaction doesn’t transform into an “interrogation” merely because a suspect voluntarily offers an “unexpected and unresponsive” answer. Thus, the officer’s question wasn’t an interrogation, and *Miranda* doesn’t apply.

Moreover, even if *Miranda* did govern this question, it would likely be subject to the “public safety” exception established in *New York v. Quarles*. Under that exception, officers may ask “questions necessary to secure their own safety or the safety of the public” without violating *Miranda*.

Lester also challenged the protective sweep that the officers conducted to ensure no one else was present in Lester’s room who might threaten officer safety during the arrest. Because the officers didn’t have a warrant, Lester argued the sweep violated his Fourth Amendment right against unreasonable searches. Further, because the officers referenced the scale they saw during the sweep in their search warrant application, Lester argues that any fruits of the subsequent search should’ve been suppressed. The court found this argument meritless. Even assuming the sweep was unconstitutional, the Government still would have obtained the evidence through other, independent means. The officers testified at the suppression hearing that they would’ve applied for the search warrant even if they hadn’t swept the room or seen the scale. Even without the sweep and scale, they had ample evidence to secure a warrant: Lester had crack cocaine in his pocket as he walked out of the motel room, and he admitted there were more drugs—marijuana—inside. That was enough to give the officers probable cause. Accordingly, there was an independent source for the fruits of the search, and the court was correct to admit this evidence.

For the Court’s Opinion: [United States v. Lester, No. 22-6077 \(6th Cir. 2024\) :: Justia](#)

## **Seventh Circuit**

[United States v. McGhee, No. 23-1615 \(7<sup>th</sup> Cir. 2024\)](#)

This appeal challenged several issues of law. This synopsis will only address the legal issues surrounding the trash pull.

In August 2021, a confidential source informed law enforcement that a drug dealer was distributing large amounts of cocaine in Peoria, Illinois. The source said the dealer drove a Chevy Malibu and supplied cocaine to a house on West Millman Street. With this information, details from other informants, and a tracking warrant, the police learned that McGhee lived on LaSalle Street, drove a Chevy Malibu, and delivered cocaine. From this, they reasonably suspected that the drug dealer was McGhee.

Between August and December 2021, they conducted three controlled buys. At the third buy, performed near the LaSalle Street house and recorded on video, a confidential source met with McGhee directly and purchased 8.5 grams of cocaine. Two months later, agents conducted a trash pull at the LaSalle Street house. Two large garbage cans were set out for that day's collection in the alley fifty feet behind the house and outside its fenced-in yard. Three kitchen size bags were sitting in the cans. Officers opened the bags and found rubber gloves and baggies with a white powdery residue, which tested positive for cocaine. Based on all of this evidence, law enforcement obtained a search warrant for the LaSalle Street house, the Chevy Malibu, McGhee's person, and his electronic devices. The affidavit supporting the warrant recounted details of the investigation and included statements by confidential sources, McGhee's history of drug trafficking convictions, and his affiliation with the LaSalle Street house. When the warrant was executed, police discovered nearly a kilogram of various drugs, including methamphetamine, heroin, fentanyl, marijuana, and cocaine (powder and crack). Law enforcement also recovered a handgun and other paraphernalia related to drug trafficking. McGhee was later charged with five drug-related counts and three firearm counts. McGhee moved to suppress, raising the argument that the trash pull was constitutionally unreasonable because it was executed without a warrant. To him, this constitutional infirmity poisoned the evidence recovered during execution of the federal search warrant. Based in part on testimony from law enforcement about the location of the trash bags, the court denied McGhee's motion.

#### Court's Analysis:

With facts similar to the case at hand, *California v. Greenwood* established that a person does not possess a "reasonable expectation of privacy in the inculpatory items that he discarded" in "plastic garbage bags left on or at the side of a public street." That principle rings truer when the bags are left in this

manner for trash pickup. In that case, the person leaves the bags “for the express purpose” of having strangers take and “sort through” the items within. As to homes more generally, the lack of a warrant prevents the physical occupation of “private property for the purpose of obtaining information.” But the shield of the Fourth Amendment ends at the boundary of a home’s curtilage. The evidence McGhee seeks to suppress was recovered from garbage bags, found in garbage cans, sitting in an alley outside the curtilage of the LaSalle house, awaiting trash pickup. Therefore, the search occurred outside the reach of McGhee’s reasonable expectation of privacy and comported with *Greenwood*. What a person knowingly exposes to the public ... is not a subject of Fourth Amendment protection. The search complied with the Fourth Amendment, so McGhee’s motion to suppress was properly denied.

For the Court’s Opinion...[United States v. McGhee, No. 23-1615 \(7th Cir. 2024\)](#)  
[:: Justia](#)

## **Ninth Circuit**

United States v. Ramirez, No.22-50045 (9<sup>th</sup> Cir. 2024)

In July 2020, Officers Buchanan and Marshal pulled over Victor Ramirez after witnessing him speed in a residential neighborhood, fail to stop at a stop sign, and not use a turn signal. Before pulling Ramirez over, one of the officers recognized him as a gang member based on an earlier encounter. After Ramirez stopped his car, Officer Buchanan approached and asked: “What’s up my man? You on probation or parole?” Ramirez answered, “Parole.” Officer Buchanan then asked, “For what?” and Ramirez responded, “For a firearm.” Officer Buchanan followed up with a few more questions, including when he last checked in with his parole officer, where he lived, whose car he was driving, and what he was doing in the area. During this exchange, Officer Buchanan could see that Ramirez had several gang-related tattoos. Based on those tattoos, Officer Buchanan claimed to know that Ramirez was in an area populated by rival gang members. Officer Buchanan testified that it would be “uncommon” for a rival gang member to be in the area “without a firearm.” After some discussion with the officer, Ramirez admitted that he had a gun in the glove compartment of the car. The officers retrieved a loaded 9mm semiautomatic pistol. The officers also checked the computer system in their patrol car and confirmed that Ramirez was on parole.

Ramirez moved to suppress the gun and ammunition, arguing that the officers unreasonably prolonged the stop by “engaging in a fishing expedition for hypothetical criminal activity rather than addressing the purported reason for the traffic stop.”

Court’s Analysis: When the police pull someone over for a traffic violation, the officer can obviously investigate that traffic infraction. But a traffic stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution’s shield against unreasonable seizures. Thus, to be lawful, a traffic stop must be limited in its scope. But, besides investigating the traffic violation that warranted the stop, a police officer can also make “ordinary inquiries incident to the traffic stop” and “attend to related safety concerns.” Following the guidance of previous decisions, the court held that an officer may extend a traffic stop to conduct “a criminal history check” because it “is a negligibly burdensome precaution required for officer safety.” More on point an officer, however, **may extend a traffic stop to ask about weapons.** *United States v. Taylor*.

The court held the Officer Buchanan did not violate Ramirez’s Fourth Amendment rights by asking him if he was on parole. Police officers may prolong a traffic stop to attend to safety concerns to include questions about parole status and weapons.

For the Court’s Opinion: [United States V. Ramirez, No. 22-50045 \(9th Cir. 2024\)](#)  
[:: Justia](#)

## **South Carolina Supreme Court**

State v. Collins, No. 28197 (SC 2024)

Randy Collins was tried and convicted for first-degree arson and criminal conspiracy, following a fire that resulted in the death of a 12-year-old boy. The conviction was based, in part, on Collins’ statement to law enforcement, which was obtained during an interview where the officers assured Collins that his statements would remain confidential. Collins appealed his conviction, arguing that his statement to law enforcement was involuntary due to the officer’s false assurance of confidentiality.

The Supreme Court of South Carolina, reviewing the case on certiorari, agreed with Collins. The court held that when law enforcement gave Collins Miranda

warnings, but then negated them by falsely advising him that his statements would remain confidential, his statement became involuntary. The court noted that such a false assurance of confidentiality is inherently coercive because it interferes with an individual's ability to make a fully informed decision on whether to engage in an interview.

Court's Analysis: On March 29, 2014, firefighters received a call around 1:15 a.m. and responded to a fire at a mobile home that was rented by Marissa Cohen in Andrews, South Carolina. The neighbor who reported the fire indicated that he believed the home to be vacant (as Cohen had recently removed her belongings). However, upon forcibly entering the locked home and extinguishing the fire, the firefighters discovered the body of a twelve-year-old boy—Cohen's youngest son—who had died from smoke inhalation.

Collins became part of the investigation based on an anonymous tip received by an investigator with the Georgetown County Sheriff's Office, Melvyn Garrett who was told Cohen, Collins, and another individual, Benjamin "Mano" Brown, were involved in the fire.

Collins agreed to talk to Agent Hardee and Investigator Garrett, so the three of them went to a small room in the police HQ. Prior to the start of the interview, the officers went over a SLED form, entitled "Miranda Rights," with Collins. The form set forth a listing of rights, including the rights to remain silent, to have an attorney present during questioning, and to the appointment of an attorney if he could not afford one. It also included the warning "Anything you say can be used in court as evidence against you." Agent Hardee read the form to Collins, and Collins initialed next to each item. Collins signed underneath a "Waiver of Rights" section at the bottom of the form to indicate that he understood his rights and was willing to talk to the officers without an attorney present. The interview lasted approximately three hours and was recorded.

After some time, Agent Hardee asked Collins to set aside their discussion to that point and just tell them what he thought happened and whether the fire was intentional or "a bad accident." Collins responded that he did not know and did not want to "say the wrong thing." Agent Hardee reassured Collins that the interview was confidential, emphasizing that the door was shut and the blinds were closed in the interview room and that anything Collins told them was only for the "file" and would not "leave this room." Agent Hardee further stated,



"Well, you're not going to say the wrong thing. Whatever you tell me, it ain't gonna leave this room. This, um, tape is going into my file. And I'm gonna, I'm gonna burn a copy for him [Investigator Garrett]. And we'll have a copy of this tape. And it ain't gonna go any further than this room. That's why we got the door shut, the blinds pulled, there's no sound device in here. I want you to be honest with me and tell me what you think." The officers reassured Collins that they were interested in Cohen, not him, and that no matter what happened during the interview, Collins would be able to go home that day. However, the officers also told Collins that if he did not tell them anything, he could be facing over thirty years in prison. Collins asked to stop the interview at one point, but he was told not to leave by the officers, as they believed he was on the verge of revealing inculpatory information.

Collins eventually acknowledged that Cohen, who rented the mobile home, had asked him to burn it down. Collins stated he had declined to do it, but he told Miller about Cohen's request. Collins conceded that he was at the mobile home with Miller the night of the fire, but he maintained that he left the scene and was not the person who actually started the fire.

In its analysis the court considered the issue of voluntariness, where one factor in the analysis is that the defendant was advised of his rights (e.g., to remain silent, to have an attorney present at questioning) and given Miranda warnings, but the warnings were then negated by law enforcement's **false assurances of confidentiality**. It is the impact on voluntariness of these two opposing points, warnings of potential consequences, versus a promise of no consequences—that was before the court, not the more narrow issue of compliance with the Fifth Amendment warning requirements under *Miranda*. As a result, the question before the Court was more precisely framed as follows: Does a false promise of confidentiality give rise to coercion and, thus, a lack of voluntariness, because it intentionally misleads a suspect about the **law**, i.e., the legal consequences and risks of proceeding with an interview with law enforcement, as distinguished from misleading a suspect about the **facts** in an investigation? The court concluded that an intentional misrepresentation of the law in this regard violates due process. Importantly, the court noted that it reached this result regardless of whether the false assurance was accompanied by Miranda warnings. A false assurance of confidentiality from law enforcement is inherently coercive because it interferes with a layperson's

ability to make a fully informed decision whether to engage in an interview under such circumstances.

If a suspect's will is overborne and his capacity for self-determination critically impaired, use of the resulting confession offends due process. The misstatement of the law and false assurance by law enforcement regarding Collins's constitutional rights violated due process.

For the Court's Opinion: [The State v. Collins :: 2024 :: South Carolina Supreme Court Decisions :: South Carolina Case Law :: South Carolina Law :: US Law :: Justia](#)