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The Informer – August 2025

United States Supreme Court Preview

Case v. Montana: Whether law enforcement may enter a home without a search warrant based on less than probable cause that an emergency is occurring, or whether the emergency-aid exception requires probable cause.....3

Circuit Courts of Appeals

[Fifth Circuit](#)

United States v. Wilson: Whether it was reasonable for police to stop a citizen solely for carrying a concealed firearm.....4

[Seventh Circuit](#)

United States v. Walker: Whether law enforcement violated the Fourth Amendment when officers looked between a mattress and the box spring during a protective sweep.....5

[Ninth Circuit](#)

United States v. Watson: Whether a condition of parole requiring a parolee to cooperate with parole officials, including being truthful, violates the Fifth Amendment right not to incriminate one's self.....6

Court of Appeals for the Armed Forces

United States v. Harborth: Whether evidence of child pornography should be suppressed when a wife provided her husband's exclusive electronic devices to law enforcement.....7

United States Supreme Court Preview

Case v. Montana, No. 23-0136 (Mont. 2024)

Police officers responded to William Case’s home after receiving a report from his ex-girlfriend, J.H., that Case had threatened suicide during a phone call with her that evening. During the call, J.H. heard a “clicking” that sounded like a cocking pistol. J.H. told Case that she was going to call the police, and Case threatened to harm any officers that came to his home if she did. Nevertheless, J.H. called the police and then drove to Case’s house where she described Case’s threats to the responding officers.

At Case’s house, officers received no response when they knocked on the door. The officers conferred with the police chief, who directed his officers to enter the house. The officers opened the unlocked front door and loudly identified themselves as they moved through the house. As one of the officers entered an upstairs bedroom, Case “jerked” open a closet curtain. The officer saw a “dark object” near Case’s waist and shot Case in the abdomen. The officers recovered a handgun that was lying in a laundry hamper just outside the closet, next to Case.

The state charged Case with Assault on a Peace Officer, for “knowingly or purposefully causing reasonable apprehension or serious bodily injury by pointing a pistol or what reasonably appeared to be a pistol” at the responding officer.

Case filed a motion to suppress evidence seized by the officers during the warrantless entry into his home. After the District Court denied the motion, Case appealed. The Supreme Court of Montana affirmed the District Court. Case then appealed to the United States Supreme Court, who granted *certiorari* in the case.

The issue before the Court is:

1. Whether law enforcement may enter a home without a search warrant based on less than probable cause that an emergency is occurring, or whether the emergency-aid exception requires probable cause.

The Court is scheduled to hear oral arguments in this case on October 15, 2025.

For the lower court’s opinion: <https://cases.justia.com/montana/supreme-court/2024-da-23-0136.pdf>

CASE SUMMARIES

Circuit Courts of Appeals

Fifth Circuit

United States v. Wilson, 23-30777 (5th Cir. 2025)

In March of 2022, federal agents were on the trail of a federal fugitive named Malik Fernandez who was wanted in connection with a drug trafficking-related shootout. From interviewing several witnesses, agents learned that Fernandez was known to associate with Damion Wilson, and that the two were like brothers. Fernandez's last known address was a home owned by Wilson's family, and three witnesses said they had last seen Fernandez with Wilson. While seeking Fernandez, law enforcement showed pictures of him to residents at Wilson's apartment complex who said that they had seen him at Wilson's apartment often, including within the last week.

Deputy U.S. Marshals located Wilson and, based on observations that he had a bulge under his clothing consistent with a firearm, decided to stop him pursuant to [Terry v. Ohio](#). The deputies directed Wilson to put his hands up, which he did, and asked if he had a gun. When Wilson said he did, they further inquired if he had a permit, which he did not. Wilson was told he was not under arrest but that they wanted to know if he had seen his friend Fernandez. Wilson told the deputies that he had not seen Fernandez in several years, which defied witness statements and the fact that a photo was posted on Wilson's public Instagram account of the two together just four months earlier.

Local officers arrested Wilson for carrying a firearm without a permit in violation of state law. A search incident to arrest revealed marijuana in his backpack, which led law enforcement officers to obtain a search warrant for his home where additional drugs, paraphernalia, and cash proceeds were located. Wilson was later indicted on federal charges including drug possession with the intent to distribute, a firearms offense, and making a false statement to a federal agent.

Wilson moved to have the evidence against him suppressed, alleging that the [Terry](#) stop was unreasonable. The district court upheld both the stop and the evidence and found that, since it was unlawful to carry a concealed weapon in public without a permit, the deputy's observation of what appeared to be a bulge created by a gun provided reasonable suspicion for the stop. A jury convicted Wilson at trial, and he was sentenced to 87 months in prison.

On appeal, the Fifth Circuit Court of Appeals was faced with deciding, among other issues, whether a reasonable suspicion that a person was armed in public, in a state where carrying a concealed gun without a license is not legal, was sufficient to justify a [Terry](#) stop. The court found that it was not. In making that finding, the court cited that such a proposition would make an entire class of people (those carrying guns in public) automatically subject to being stopped and searched, absent any other particularized suspicion.

However, the court found that the deputies had reasonable suspicion sufficient to stop Wilson, even without observing the bulge. The court reasoned that the deputies' knowledge that Wilson

had a recent previous drug and firearm arrest, along with ample evidence regarding his recent association with a fugitive wanted for a drug-related shooting provided, at minimum, reasonable suspicion that he was potentially involved in drug trafficking or harboring a fugitive. The court held that both the stop and searches were reasonable, affirming the conviction from the lower court.

For the court's opinion: <https://cases.justia.com/federal/appellate-courts/ca5/23-30777/23-30777-2025-07-17.pdf>

Seventh Circuit

United States v. Walker, 24-1522 (7th Cir. 2025)

Officers executed an arrest warrant for Richard Walker at a home where he lived with his girlfriend, Ramona Paulette. Also living in the home was the couple's son, Walker Jr., and Paulette's mother, Laverne Shipp. Upon arrival at the residence, officers knocked on the door. Walker Jr. opened the door and stepped outside. A short time later, Walker emerged from the residence and officers arrested him outside the front door.

Next, the officers conducted a protective sweep of the residence. In Walker Jr.'s bedroom, the officers found a firearm underneath the mattress. The mattress sat directly on a box spring, and the box spring laid on top of the floor. While the officers were still on the scene, Shipp and Paulette arrived home. The officers told Shipp of the firearm discovered in Walker Jr.'s bedroom and requested Shipp's consent to search the rest of the home. Shipp signed a voluntary consent form. During the second search, officers found fentanyl and drug paraphernalia.

The government charged Walker with firearm and drug offenses. Walker filed a motion to suppress all evidence found in the residence. The district court denied the motion, finding the sweep and the search were justified. Walker then entered a conditional plea of guilty, reserving his right to appeal the denial of the suppression motion.

As an initial matter, the Seventh Circuit Court of Appeals held that Walker's status as an overnight house guest, who spent most nights at the Shipp residence, gave him a legitimate expectation of privacy in the home; therefore, he had standing to challenge the search of Walker Jr.'s bedroom.

Next, the court addressed Walker's argument that the protective sweep violated the Fourth Amendment because it was unreasonable in scope. Specifically, Walker claimed that, under the circumstances, no reasonable officer would have believed an assailant was hiding underneath the mattress in Walker Jr.'s bedroom and, thus, searching underneath the mattress was unreasonable.

The court recognized that the purpose of a protective sweep is to ensure the safety of the arresting officers. As such, protective sweeps are limited in their scope and can only extend "to a cursory inspection of those spaces where a person may be found," and must "last no longer than is necessary to dispel the reasonable suspicion of danger."

In this case, the court held that nothing in the record indicated that the officers had a reason to believe the area between the mattress and box spring had been hollowed out so that lifting the

mattress would be “necessary to dispel the reasonable suspicion of danger.” The court recognized that, although it may have been theoretically possible for a person to have hollowed the inside of the mattress or box spring to create a hiding space from which to attack, theoretical possibilities cannot be enough. Finding otherwise would permit officers to lift a mattress in every protective sweep, regardless of the reasonableness of their suspicions or configuration of the premises.

The court cited three examples from other circuits where the courts found searches under mattresses to be reasonable during protective sweeps. In the first case, a search underneath a bed was held to be reasonable in light of an officer’s testimony that the bed frame was high enough for a person to hide underneath. Unlike this case, there was no request that the court assume, based only on speculation, that a dangerous person had hollowed out the bed.

In a second case, the court found it was reasonable to search inside a wooden box on which a waterbed rested, given an officer’s testimony that “he believed the wooden box . . . was hollow and large enough for a person to hide inside.” Here, the government did not identify any facts that would have caused a reasonable officer to believe that Walker Jr.’s mattress or box spring were hollowed out. Instead, the government simply provided a blanket statement without any context that individuals sometimes hide underneath mattresses.

In a third case, the court found it was reasonable when there was a belief that a person for whom officers were searching was “hidden . . . in a hollowed box spring,” as officers “noticed a light on before hearing a door shut” and observed suspicious behavior of a person sitting on the bed. Similar circumstances were not present here, as there were no facts indicating suspicious behavior within Walker Jr.’s bedroom to suggest someone was hiding between the mattress and box spring.

After finding that the protective sweep violated the Fourth Amendment, the court remanded the case to the district court to determine two outstanding issues: 1) whether the circumstances as they existed before the illegal protective sweep would have led to the inevitable discovery of the evidence; and 2) whether Shipp’s consent to search was tainted by the illegal protective sweep.

For the court’s opinion: <https://cases.justia.com/federal/appellate-courts/ca7/24-1522/24-1522-2025-07-17.pdf>

Ninth Circuit

United States v. Watson, No. 24-1865 (9th Cir. 2025)

Based on information provided by a reliable informant, a multi-jurisdictional drug taskforce believed that Tyler Watson was trafficking in illegal narcotics. The information indicated that Watson was transporting drugs in magnetic containers beneath his vehicle. These law enforcement officers also learned that Watson was on parole with a condition of that parole being that he was subject to warrantless searches of himself and property by parole officials or any other law enforcement officers. The parole terms also provided that Watson would cooperate with his parole officers and further defined “cooperation” to include being truthful with them.

Taskforce members, in coordination with parole officials, intended to execute a traffic stop on Watson in order to conduct a parole-compliance search. Based on an observed traffic violation,

an officer who had been briefed on the operation conducted a traffic stop on Watson's vehicle. At the request of parole officials, Watson was detained and his vehicle searched. A parole officer on-scene advised Watson that they were aware of the investigation, obtained the passcode to his cell phone, and had little other interaction thereafter. Law enforcement officers located two magnetic containers on the undercarriage of the vehicle that contained suspected controlled substances.

Watson was then transported a short distance to his residence, which was the home of his mother, where a further search was conducted. A local detective, along with two DEA agents, approached Watson as he sat detained in a patrol car and advised him of his *Miranda* rights. After waiving his rights, Watson told agents that he had more drugs at his grandmother's home. Watson was then transported to his grandmother's home, where they received consent to search her garage for narcotics along with the proceeds from the sale of narcotics. Watson agreed to show officers where those items were located. The search yielded four and a half kilograms of fentanyl, two ounces of methamphetamine, and \$8,600 in drug proceeds.

Watson was indicted for a single count of possession with the intent to distribute fentanyl. He filed a motion to suppress the evidence alleging his Fifth Amendment rights were violated, which the trial court denied. Watson entered a plea of guilty, was sentenced, and appealed his conviction based on the denial of the motion to suppress.

The crux of Watson's argument and the issue before the court was whether the parole provision requiring his cooperation with parole officials had violated his Fifth Amendment privilege against self-incrimination by forcing him to give evidence against himself. The Fifth Amendment provides that no person shall be compelled to give evidence against themselves.

The court noted that the information he provided that led to the discovery of evidence was requested and provided to law enforcement officers, not parole officers. The court further noted that those statements were also made after a valid reading and waiver of his *Miranda* rights. While Watson's parole concessions required that he cooperate with parole officials, to include being truthful, the court opined that the statements were not made to parole officials, that he had not been told a failure to speak to those law enforcement officers would violate his parole, and that the statements were otherwise found to be voluntary by the lower court. The court found that the statements and the evidence obtained were the fruits of a Mirandized statement made during a law enforcement interrogation and were admissible.

For the court's opinion: <https://cases.justia.com/federal/appellate-courts/ca9/24-1865/24-1865-2025-05-23.pdf>

Court of Appeals for the Armed Forces

United States v. Harborth, Nos. 24-0124 & 24-0125 (CAAF, 2025)

In May of 2019, Jeremy Harborth was serving in the United States Navy as a Chief Master-at-Arms, a senior law enforcement role for his military installation, near Honolulu, Hawaii, where he lived with his wife and 15-year-old step-daughter. During an argument, Chief Harborth's wife accused him of infidelity, took his phone, demanded his passcode, and examined its contents. Among the images in the deleted folder, she found four images taken by a security camera in the

step-daughter's bedroom that captured the girl in various stages of dressing. Upon seeing these pictures, the wife called the local Honolulu police.

While awaiting the police, the wife confronted Chief Harborth and asked him if he had these pictures to "pleasure himself to them." Although he responded no, he acknowledged that he had thought about it, resulting in his wife punching him in the face.

The Honolulu police officer who responded to the home initially assured Chief Harborth no one was "in trouble yet," to which Chief Harborth responded, "It's bad, I need help. You should just arrest me now." When the wife thereafter met with the officer, she showed him the images on the phone and gave the phone to the officer.

In the following days, the wife continued searching devices in the home and, on several, she found evidence that Chief Harborth emailed himself approximately 20 videos captured by the camera in the step-daughter's bedroom, including videos of her nude. The wife turned these devices over to Honolulu police. Four days later, she also supplied a box of electronic devices to Naval Criminal Investigative Service (NCIS) agents that belonged to Chief Harborth and consented to a search of the home that she shared with Chief Harborth.

Ultimately, the Navy requested and received jurisdiction of the case from the state of Hawaii in order to prosecute Chief Harborth under a military courts-martial. The Navy requested and received a search authorization (the military terminology for a search warrant). After NCIS's forensic examination of the devices yielded 126 videos and several additional images of the step-daughter changing clothes, the Navy filed courts-martial charges against Chief Harborth for possession of child pornography.

Thereafter, Chief Harborth's lawyer filed a motion to suppress the evidence found on his devices. At the motion hearing, the lead NCIS agent testified that the wife collected the devices and turned them over to the Honolulu police and NCIS on her own initiative. Ruling on the motion, the trial judge found that "law enforcement officers did not search the devices, ask for them or collect them while searching the home." Instead, the court found that the wife, on her own volition, collected and provided Chief Harborth's devices.

When Chief Harborth appealed this ruling, the Court of Appeals for the Armed Forces found the case "straightforward" because Chief Harborth, through his counsel, agreed that the wife was not acting as a government actor when she handed over Chief Harborth's exclusive electronic devices to law enforcement. Reasoning that the Fourth Amendment restrains government action and not private conduct, the Court ruled that, because the wife was a private actor, her actions were not constrained by the Fourth Amendment. Consequently, the evidence was admissible against Chief Harborth.

For the court's opinion: <https://cases.justia.com/federal/appellate-courts/caaf/24-0124-NA/24-0124-NA-2025-06-03.pdf>