

AONE 2021 Legal Update

U.S. Supreme Court Cases

***Lange v. California*, 594 U.S. _____ (2021):**

Overview: Pursuit of a fleeing misdemeanor suspect does not always allow an exigent circumstance entry into a home.

Case Quote: The flight of a suspected misdemeanant does not always justify a warrantless entry into a home. An officer must consider all the circumstances in a pursuit case to determine whether there is a law enforcement emergency. On many occasions, the officer will have good reason to enter— to prevent imminent harms of violence, destruction of evidence, or escape from the home. But when the officer has time to get a warrant, he must do so—even though the misdemeanant fled.

***U.S. v. Cooley*, 593 U.S. _____ (2021):**

Overview: A tribal officer has the authority to detain and search a non-Indian parked on a public right of way running through the reservation for potential violations of federal and state law.

Case Quote: To deny a tribal police officer authority to search and detain for a reasonable time any person he or she believes may commit or has committed a crime would make it difficult for tribes to protect themselves against ongoing threats. Such threats may be posed by, for instance, non-Indian drunk drivers, transporters of contraband, or other criminal offenders operating on roads within the boundaries of a tribal reservation. As the Washington Supreme Court has noted, “[a]llowing a known drunk driver to get back in his or her car, careen off down the road, and possibly kill or injure Indians or non-Indians would certainly be detrimental to the health or welfare of the Tribe.” [Internal Citation omitted]

***Caniglia v. Strom*, 593 U.S. _____ (2021):**

Overview: The community caretaking function of *Cady v. Dombrowski* did not create a “standalone doctrine” justifying the warrantless removal of a firearm from a home.

Case Quote: [The police] called an ambulance, and petitioner agreed to go to the hospital for a psychiatric evaluation— but only after [the police] allegedly promised not to confiscate his firearms. Once the ambulance had taken petitioner away, however, [the police] seized the weapons.

What is reasonable for vehicles is different from what is reasonable for homes. *Cady* acknowledged as much, and this Court has repeatedly “declined to expand the scope of . . . exceptions to the warrant requirement to permit warrantless entry into the home.”

***Torres v. Madrid*, 592 U.S. _____ (2021):**

Overview: The touching of an individual qualifies as a Fourth Amendment seizure even if the person does not submit to the force and flees.

Case Quote: [T]he common law rule does not transform every physical contact between a government employee and a member of the public into a Fourth Amendment seizure. A seizure requires the use of force *with intent to restrain*. Accidental force will not qualify.

We hold that the application of physical force to the body of a person with intent to restrain is a seizure even if the person does not submit and is not subdued.

***Kansas v. Glover*, 589 U.S. _____ (2020):**

Overview: When officers run a license plate which shows the registered owner to have a revoked driver’s license, the officer has reasonable suspicion to conduct a traffic stop so long as the officer has no information negating that inference.

Case Quote: Before initiating the stop, Deputy Mehrer observed an individual operating a 1995 Chevrolet 1500 pickup truck with Kansas plate 295ATJ. He also knew that the registered owner of the truck had a revoked license and that the model of the truck matched the observed vehicle. From these three facts, Deputy Mehrer drew the commonsense inference that Glover was likely the driver of the vehicle, which provided more than reasonable suspicion to initiate the stop.

Here, Deputy Mehrer possessed no exculpatory information—let alone sufficient information to rebut the reasonable inference that Glover was driving his own truck—and thus the stop was justified.

***Mitchell v. Wisconsin*, 588 U.S. _____ (2019):**

Overview: Generally speaking, if a driver arrested for driving under the influence becomes unconscious, the officer will have an exigency allowing a warrantless blood draw.

Case Quote: Today, we consider what police officers may do in a narrow but important category of cases: those in which the driver is unconscious and therefore cannot be given a breath test. In such cases, we hold, the exigent-circumstances rule almost always permits a blood test without a warrant.

Thus, when a driver is unconscious, the general rule is that a warrant is not needed.

We do not rule out the possibility that in an unusual case a defendant would be able to show that his blood would not have been drawn if police had not been seeking BAC information, and that police could not have reasonably judged that a warrant application would interfere with other pressing needs or duties.

***Nieves v. Bartlett*, 587 U.S. _____ (2019):**

Overview: A First Amendment retaliatory arrest claim will typically fail as a matter of law if there is probable cause for the arrest.

Case Quote: The plaintiff pressing a retaliatory arrest claim must plead and prove the absence of probable cause for the arrest.

Although probable cause should generally defeat a retaliatory arrest claim, a narrow qualification is warranted for circumstances where officers have probable cause to make arrests, but typically exercise their discretion not to do so.

Because this inquiry is objective, the statements and motivations of the particular arresting officer are “irrelevant” at this stage.

***Timbs v. Indiana*, 586 U.S. _____ (2019):**

Overview: The Eighth Amendment’s Excessive Fines Clause is an incorporated protection applicable to the States under the Fourteenth Amendment’s Due Process Clause – therefore, a forfeitures initiated by a state must pass the excessive fines test.

Case Quote: The Excessive Fines Clause is therefore incorporated [and applicable to the States] by the Due Process Clause of the Fourteenth Amendment.

Oklahoma Court of Criminal Appeals Cases

Fuentes v. State, 2021 OK CR 18:

Overview: An officer could conduct a detention based on reasonable suspicion by relying on information possessed by other officers.

Case Quote: The collective knowledge doctrine has both vertical and horizontal application. The vertical application, implicated here, occurs "when an officer having probable cause or reasonable suspicion instructs another officer to act, even without communicating all of the information necessary to justify the action." *United States v. Whitley*, 680 F.3d 1227, 1234 (10th Cir. 2012). The officer taking action does not need to personally be aware of all the facts justifying the detention because "officers, who must often act swiftly, cannot be expected to cross-examine their fellow officers about the foundation for the transmitted information." *United States v. Hensley*, 469 U.S. 221, 231 (1985) (quoting *United States v. Robinson*, 536 F.2d 1298, 1299 (9th Cir. 1976)).

State v. Roberson, 2021 OK CR 16:

Overview: Oklahoma's medical marijuana laws did not affect the probable cause to search a vehicle based on the strong odor of marijuana.

Case Quote: The decriminalization of marijuana possession for those holding medical marijuana licenses in no way affects a police officer's formation of probable cause based upon the presence or odor of marijuana.

The smell of marijuana provided further probable cause to extend the stop and expand the search.

While the production of a medical marijuana license may constitute an affirmative defense to the crime, in this case the officer's determination of probable cause was not affected given the totality of all the circumstances.

State v. Cardenas-Moreno, 2020 OK CR 15:

Overview: Preliminary breath tests (PBT's) is generally admissible in court as a standard field sobriety test.

Case Quote: The question here is whether a preliminary breath test (PBT) should be treated as a field sobriety test, or is more like a test for specific blood alcohol concentration, such as a breath test given under 47 O.S.Supp.2019, § 752.

[T]he State has not sought to admit a PBT result with a number purporting to show a specific alcohol concentration; the claim that Appellee had a "failing" result is merely an estimate, and a rough one at that.

The trial court below ruled simply that "The PBT test is not admissible in Oklahoma." No law supports that statement, and the finding is an abuse of discretion.

Wall v State, 2020 OK CR 9:

Overview: Evidence that a defendant manufactured methamphetamine 16 years prior to the current charge was admissible to prove the defendant's knowledge of a meth lab found in his garage.

Case Quote: [T]he terms "signature crimes" or "signature evidence" do not require that the crimes be identical in all respects but merely that they share unique or unusual aspects from which one might reasonably infer that both were committed by the same person.

Here, the similarities between the 2000 lab and the 2016 lab were not sufficient to establish a signature or distinctive method of committing the crime of manufacturing methamphetamine.

However, we find the evidence of the 2000 lab was properly admissible under the knowledge exception to the other crimes prohibition. Appellant claimed he had no knowledge that the tools and materials discovered in the garage where he operated his granite business could be used to manufacture methamphetamine. Evidence that he operated a methamphetamine lab in the past was relevant to prove his knowledge of the use and purposes of the tools and materials found in his garage in 2016.

Fuston v State, 2020 OK CR 4:

Overview: The requirement of a search warrant to obtain cell site location information under *Carpenter v. U.S.* is not to be applied retroactively to suppress evidence.

Case Quote: *Carpenter* was decided approximately one year after Appellant's trial.

The officers in this case therefore had an objectively reasonably good faith belief that no warrant was required to obtain the CSLI from Appellant's phone.

The information was collected in good faith, and its exclusion would have no deterrent effect.

Hodges v State, 2020 OK CR 2:

Overview: If blood is drawn from a suspect in another state it may still be admissible if the draw was in compliance with that state's law, even if it does not meet the standards of the Oklahoma Board of Tests.

Case Quote: [T]he State has the burden to show that tests from another state comply with that state's laws and would be admissible in that state's courts. *See Hovet*, 2016 OK CR 26, ¶ 6, 387 P.3d at 953. If that burden is met, the results of a blood test from another state should be admissible as competent evidence under Section 757.

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