

Dr. Anthony's list of

RELEVANT NEWS REPORTING COURT CASES

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Stop-and-ID

North Carolina does not have a "Stop and ID statute". This means that if, for example, you are merely walking down the street, police cannot stop you and demand to know who you are or to see documentation of your identity. NC Police can never compel you to identify yourself without reasonable suspicion to believe you're involved in illegal activity unless you are operating a motor vehicle (NCGS 20-29), or lawfully carrying a concealed handgun with a permit (NCGS 14-415.11).

Henes v. Morrissey, WI

"No law allows officers to arrest for obstruction on a person's refusal to give the person's name. Mere silence is insufficient to constitute obstruction."

Branzburg v. Hayes (1972)

Press Defined

"Freedom of the Press is defined as "Every sort of publication which affords a vehicle of information and opinion" and that the Freedom of the Press is a "fundamental personal right" not confined to newspapers or periodicals." ~ Supreme Court Justice Charles E. Hughes.

United States v. Manning (2013)

No difference between blogger and News Media

"People who blog or use social media are journalists entitled to Media Shield Laws. They are protected by the Free Speech and Free Press clauses of the U.S. Constitution. The suggestion that communication by corporate members of the institutional media is entitled to greater Constitutional protection than the same communication by "non-institutional" press is absurd."

State v. Leigh, NC (1971)

Obstruction

"Merely remonstrating with an officer on behalf of another, or criticizing or questioning an officer while he is performing his duty, when done in an orderly manner, does not amount to obstructing or delaying an officer in the performance of his duties."

Sharpe V. Winterville NC Police Department (2023)

Right to Record cops

"The right to record law enforcement is protected under the First Amendment, and recording police encounters is a clearly established right"

Florence v. City of Lakeland

Trespass Warning

A stop merely to issue a trespass warning to an individual is not a Terry Stop, but rather a consensual encounter.

City of Houston v. Hill (1987)

Criticism towards police

"The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers. Critical speech, even if voiced in a crude and insulting manner, is generally protected speech that cannot be criminalized unless it rises to the level of fighting words."

"The freedom of individuals to verbally oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state."

Chaplinsky v. New Hampshire (1942)

Definition: Fighting words

"To qualify as fighting words under Chaplinsky and its progeny, the language must be communicated in person, using words likely to provoke imminent violence against the speaker by the person to whom the comments are addressed. The standard for fighting words may be even higher when the language is addressed towards a police officer. A properly trained officer may reasonably be expected to 'exercise a higher degree of restraint than the average citizen, and thus be less likely to respond belligerently to 'fighting words."

Wood v. Eubanks, NC (2022)

Insults towards police

A federal court of appeals recently ruled in favor of a man who called a group of police officers "bitch ass fucking pigs", "motherfuckers", and "dirty rat bastards." The court found that his arrest on disorderly conduct charges was unjustified because "mere epithets directed at a law enforcement officer, no matter how coarse or profane, do not constitute fighting words and are protected by the First Amendment."

United States v. Ellison

No privacy in license tag

License tag does not belong to vehicle owner. *"A motorist has no privacy interest in her vehicle license tag. The very purpose of a license plate number, like that of a Vehicle Identification Number, is to provide identifying information to law enforcement officials and others. Because of the important role played by the [license plate] in the pervasive governmental regulation of the automobile and the efforts by the Federal Government to ensure that the [license plate] is placed in plain view, a motorist can have no reasonable expectation of privacy in the information contained on it."*

**See Katz V. United States "What a person knowingly exposes to the public is not a subject of Fourth Amendment protection."*

Cohen v. California (1971)

Profanity in public

A man was charged with disturbing the peace after wearing a "fuck the draft" jacket in a courthouse hallway. The court found that the arrest violated the First Amendment. The jacket did not contain fighting words, as it was not a "direct personal insult" to anyone. And while it was coarse and profane, *"one man's vulgarity is another's lyric"* and there was no principled basis for removing any particular word or term from the "public vocabulary." Further, the court opined in Cohen, "an

expletive, while provocative, if not directed towards a specific person, is not disturbing the peace. Speech that is distasteful or offensive to some members of the public is not enough to remove First Amendment protections and subject the speaker to criminal prosecution”

Lewis v. City of New Orleans (1974)

Profanity towards police

The Court considered a case in which a woman whose son had just been arrested allegedly called an officer a "god damn mother fucking police." She was charged with, and convicted of, violating a New Orleans ordinance that made it a crime to "curse or revile or to use obscene or opprobrious language toward or with reference to" an officer in the course of his or her duties.

The appellate court reversed, and in opinion written by Justice Brennan, the Court found the ordinance over broad and unconstitutional.

State v. Duncan (2011)

Carrying firearm is nor reasonable suspicion

The mere presence of a firearm does not automatically justify a Terry stop, highlighting the balance between lawful open carry and the officer's duty to investigate reasonable suspicion.

"A Terry stop requires reasonable suspicion that the subject of the stop is engaged in criminal activity. Carrying a gun openly isn't criminal in itself. Nor, under most circumstances, is it particularly indicative of other criminal activity."

* See also DeBerry v. U.S.

Thurairajah v. City of Fort Smith (2023)

Profanity towards police

U.S. Court of appeals, 8th Circuit, found that police lacked probable cause to arrest Eric Thurairajah for disorderly conduct after he drove by a traffic stop and yelled "fuck you" to an officer on the side of the road, because the shout constituted free speech.

State v. Humphreys, NC (2020)

Verbal abuse alone it not resisting, delaying, or obstructing

Verbal abuse alone is not resisting, delaying, or obstructing a police officer. Verbally abusive language directed at officers sometimes results in a charge of resisting, delaying, or obstructing (RDO) an officer in violation of N.C.G.S. 14-223. Our appellate courts have held that merely cursing at or insulting an officer does not amount to RDO. For example, in Humphreys, a woman was "belligerent, cursing, and very loud" after a police dog alerted on her car in a school parking lot. Though not noted in the opinion, the charging documents in the case allege that her comments included "fuck you" and "fuck all of you motherfuckers." She was charged with, and convicted of, RDO, but the court of appeals reversed the conviction. It described her as "merely remonstrating" with the officers, for the proposition that verbal remonstrating is not obstruction. In other words, verbal abuse alone does not amount to RDO.

Terry v. Ohio (1969)

Suspicious isn't illegal.

Under Terry, a detention is lawful under the 4th Amendment ONLY where behavior gives rise to "reasonable suspicion" that "criminal activity may be afoot. "Terry does not authorize detention when behavior is only "suspicious". Police effect a seizure when they, "by means of physical force in some way restrain the liberty of a citizen. Behavior that is merely suspicious because it is unusual, may certainly be grounds for a "consensual encounter" by law enforcement, but more than that is Constitutionally required to lawfully detain someone against their will."

~United States Supreme Court Chief Justice Earl Warren

Salinas v. Texas (2013)

Person must speak to invoke rights

A person has to speak to invoke his 5th Amendment right. Chief Justice Roberts and Justice Kennedy concluded that the Fifth Amendment's privilege against self-incrimination does not extend to defendants who simply decide to remain mute during questioning. Any person who desires protection against self-incrimination under the 5th Amendment to the U.S. Constitution must explicitly claim that protection.

Cruise-Gulyas v. Minard (2019)

Giving police the finger

"Flipping off" police cannot justify traffic stop. Vulgar gestures towards police are protected speech under the 1st Amendment to the U.S. Constitution.

Riley v. California and U.S. v. Wurie

Searching cell phone

Police cannot search a person's phone incident to arrest. A warrant must be obtained absent consent of the owner.

Smith v. Daily Mail (1979)

No special protection for minors in news report

Journalist can use a minors name in news stories as long as the information is legally obtained and truthfully reported.

Brown v. Texas (1979)

Detaining to ID

Detaining a person to ID constitutes "seizure" of that person. For a detainment to be lawful it is subject to the requirement of the 4th Amendment to the U.S. Constitution and that the seizure be reasonable.

State of Washington v. Veilleux (2014)

Refusal to ID

Refusal to ID to police while only detained is insufficient to support a conviction for obstructing a Law Enforcement Officer.

Nussenzweig v. diCorcia (2007)

Definition of commercial use

When a photographer or journalist uses an individuals image without consent and earns money, it does not constitute commercial use unless that image is used to endorse a product. *"Merely selling books or prints of people photographed does not constitute commercial use and thus does not require that person's permission. However the person's image cannot be used to endorse a product."*

Horton v. California

Discovery of evidence by police

Discovery of evidence does not have to be an inadvertent (Plain view doctrine).

"Officers may intentionally situate themselves where they believe they can observe a crime or find evidence, and may obtain that evidence without a warrant so long as the evidence is in plain view provided the officers do not violate any laws positioning themselves."

Freeman v. Gore (2007)

Yelling at police is not Resisting, delaying, or obstructing

The United States Court of Appeals, Fifth Circuit, found that Defendant Freeman did not resist, delay, or obstruct officers who served a warrant on the Defendant. Deputies argued that Defendant's conduct upon emerging from her home yelling and screaming at the deputies created probable cause to arrest her for "Interference with Public Duties" because she was interfering with their ability to investigate. The court disagreed. *"Texas statute contains an express defense to prosecution, however, if the interruption, disruption, impediment, or interference alleged consisted of speech only. Yelling and screaming alone does not take a Defendant's conduct out of the realm of speech."*

New York Times v. Sullivan (1964)

Good faith reporting

The court held the press is largely free from any adverse act or court action if it attempts truthfully to report news of public concern; and when the news involves a public official, even erroneous reportage has a high degree of protection.

Glik v. Cunniffe (2011)

Right to record police in public

A private citizen has the right to record video and audio of police carrying out their duties in a public place, and that the arrest of the citizen for a wiretapping violation violated his 1st and 4th Amendment Constitutional rights.

Castle Rock v. Gonzales

No duty to protect citizens

The U.S. Supreme Court held that even with a restraining order, the police are not Constitutionally required to enforce it or protect individuals.

Warren v. District of Columbia (1981)

No duty to protect individual citizens

The DC Court of Appeals ruled that police have no legal duty to protect individual citizens.

"The duty to provide public services is owed to the public at large, and, absent a special relationship between the police and an individual, no specific legal duty exists".

*Also see DeShaney v. Winnebago County, Town of Castle Rock v. Gonzales, & Lozito v. New York City

DeShaney v. Winnebago County

No duty to protect child

The Supreme Court ruled the State has no Constitutional duty to protect a child from abuse by a parent, despite previous involvement by Child Protective Services.

Marsh v. Alabama (1946)

Private property may be public depending on usage

Privately owned spaces, which serve the same function as public spaces (walkways, parking lots, etc), may still be subject to First Amendment protections, broadening the definition of "public forums".

Rodriguez v. United States (2015)

Extending a traffic stop

Extending a traffic stop to address matters unrelated to the original reason for the traffic stop without reasonable, articulable suspicion is unconstitutional.

Obsidian Finance Group v. Cox (2014)

No difference in blogger and journalist

The Court of Appeals of the 9th Circuit ruled that a blogger is entitled to the same free speech protections as a journalist. "*Journalists and bloggers are equally protected under the 1st Amendment because the protections of the 1st Amendment do not turn on whether the defendant was a trained journalist, formally affiliated with traditional news entities*" the court wrote.

DeBerry v. U.S.

Firearm & Terry stop

A firearm, where legally carried, cannot be the only basis for a Terry stop.

State v. Samantha Elabanjo, NC (2011)

Profanity in public

Cursing in public is protected by the U.S. Constitution. Superior Court Judge Allen Baddour dismissed a charge against Samantha Elabanjo, who had been charged with using profanity during a confrontation with police. Elabanjo was engaged in conversation near a bus stop in Chapel Hill and stepped into Franklin Street as two Chapel Hill police officers drove by. The officers stopped their car and directed Ms. Elabanjo to move along. As she was returning to the sidewalk, she said to the officers, "*You need to clean your damn dirty car.*" Then, after she was back on the sidewalk, Ms. Elabanjo referred to the officers as "assholes." At that point, the officers arrested Elabanjo for disorderly conduct and for the use of profanity on a public roadway. Judge Baddour ruled the North Carolina law against "indecent or profane language within earshot of two or more people on any public road in North Carolina" is too broad. "*A reasonable person cannot be certain before she acts that her language is not violative of this law, and it is therefore unconstitutionally vague*" Judge Baddour stated.

Katz v. United States (1967)

No privacy in public

The U.S. Supreme Court has long held that there is NO reasonable expectation of privacy in "*what a person knowingly exposes to the public. Because the 4th Amendment protects people, rather than places, its reach cannot turn on the presence or absence of a physical intrusion into any given enclosure.*"

Smith v. City of Cummin (2000)

Right to record in public

The 1st Amendment protects the right of citizens to gather information about what public officials do on public property, and specifically, a right to record matters of public interest. The courts have consistently held that citizens have broad 1st Amendment rights to record government activity occurring in areas that are unlimited public forums such as public roads, sidewalks, and parks. However, courts have allowed greater restrictions on 1st Amendment activity inside public buildings and other areas deemed "limited forums". Any restrictions on recording in these areas must be reasonable and content neutral.

NAACP v. Claiborne Hardware Co. (1982)

Boycotts / protests / demonstrations

Officials cannot prohibit peaceful advocacy of a politically motivated boycott.

In a decision by Supreme Court Justice John P. Stevens, the US Supreme Court held that the nonviolent elements of the petitioners' activities were protected by the 1st Amendment and that the petitioners were not liable in damages for the consequences of their nonviolent protected activity.

The decision means that "boycotts and related activities to bring about political, social, and economic change are political speech, occupying the highest rung of the hierarchy of 1st Amendment values."

Near v. Minnesota (1931)

Prior restraint unconstitutional

Near v. Minnesota was a landmark decision of the US Supreme Court under which prior restraint on publication was found to violate freedom of the press as protected under the 1st Amendment of the Constitution. The U.S. Supreme Court held that, except in rare cases, editorship is unconstitutional and that "No prior restraint of the content of news by the government is allowed unless it reveals crucial military information, contains obscenity, or may directly incite acts of violence." Chief Justice Charles E. Hughes stated, "...the fact that liberty of press may be abused does not make any less necessary the immunity of the press from prior restraint ... a more serious evil would result if officials could determine which stories can be published".

*NOTE: Definition of "obscene" and "profane" differs

Presser v. Illinois (1886)

U.S. Constitution is the authority in every state

Also referred to as the "incorporation clause". A State or Municipality may not enact a law or ordinance that contradicts a right afforded in the U.S. Constitution. In Presser, the Supreme Court opined, "The provision in the Fourteenth Amendment to the Constitution that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" does not prevent a state from passing such laws to regulate the privileges and immunities of its own citizens as do not abridge their privileges and immunities as citizens of the United States."

Gitlow v. New York (1925)

States are bound to protect freedom of speech.

A State, or its officer, cannot deprive a person of his 1st Amendment right without due process. The Court stated that "For present purposes we may and do assume that the rights of freedom of speech and freedom of the press were among the fundamental personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the states".

State v. Lyles, NC (2008)

Reasonable suspicion required

Our State Supreme Court has stated that "the police can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity 'may be afoot,' even if the officer lacks probable cause."

* Suspicion is merely an opinion without facts.

Marbury v. Madison (1803)

U.S. Constitution is law

Marbury is regarded as the single most important decision in American Constitutional law. In Marbury, the U.S. Supreme Court established that the U.S. Constitution is actual law, not just a statement of political principles and ideals. A State, City, or Municipality cannot make a law or statute which impedes a right guaranteed by the U.S. Constitution. "All laws which are repugnant to the Constitution are null and void and courts, as well as other departments, are bound by that instrument. It is impossible for a law that violates the U.S. Constitution to be valid."

~U.S. Supreme Court Justice John Marshall

State v. Watkins, NC (1994)

Police must have facts, not hunches or opinion

Reasonable suspicion requires "*the stop must be based on specific and articulable facts, as well as the rational inferences from those facts, as viewed through the eyes of a reasonable, cautious officer, guided by his experience and training.*"

State v. Harrel, NC (1984)

Police may detain with reasonable suspicion

"An officer may briefly detain a suspect when responding to and observing activity reasonably calculated to be criminal activity."

State v. Friend, NC (2014)

ID does not have to be gov't issued

Defendant correctly points out to the Court in Friend that an officers request for ID does not require a government-issued identification, although officers may require defendants to present "verifiable" identification.

*NOTE: The court did not, however, define "verifiable"

ACLU v. Alvarez (2010)

Audio/video recording police officers in public is not "wiretapping".

"The act of making an audio or audiovisual recording is necessarily included within the First Amendment's guarantee of speech and press rights as a corollary of the right to disseminate the resulting recording. The right to publish or broadcast an audio or audiovisual recording would be insecure, or largely ineffective, if the antecedent act of making the recording is wholly unprotected."

Application of State v. Nakamoto, NC (2018)

No consent needed to photograph person in public

The court ruled that it is not illegal to photograph someone in a public place without their consent, even if the photograph is taken in a way that is surreptitious (stealthy, secret) or embarrassing. (The court also ruled that there are some exceptions to this rule. For example, it is illegal to photograph someone if they have a reasonable expectation of privacy, such as if they are in a bathroom or changing room.)

City of Grants Pass v. Johnson (2024)

Homeless sleeping in public

Municipalities are permitted to prohibit homeless persons from sleeping/camping in public. The U.S. Supreme Court held that local government ordinances with civil and criminal penalties for camping on public land do not constitute cruel and unusual punishment of homeless people.

New York State Rifle & Pistol Association v. Bruen (2022)

No explanation required

A journalist or person taking photographs in public does not need to explain a reason or purpose for his legal activity (neither to police nor bystanders). The U.S. Supreme Court ruled that New York's gun permitting law was unconstitutional. Supreme Court Justice Clarence Thomas opined, "One does not need to give a reason or show a need in order to exercise a right."

Philadelphia Newspapers, Inc. v. Hepps

Truth is an absolute defense to libel.

In Hepps, the U.S. Supreme Court established that plaintiffs are required to prove that the statements of fact were false. As a result of the Supreme Court's decision in Hepps, private individuals suing for libel also must prove the statement was false. All plaintiffs must demonstrate

that the news organization was at fault in some way. To establish defamation, the Supreme Court has ruled that "*Complainant must prove that the publisher or broadcaster acted with "actual malice" in reporting derogatory information. "Actual malice," in libel parlance, does not mean ill will or intent to harm. Instead, it means the defendant knew that the challenged statements were false or acted with reckless disregard for the truth.*"

Milkovich v. Lorain Journal Co.

Opinion is protected speech

Opinion is protected speech under the First Amendment, although the Supreme Court limited the formerly broad reach of opinion protection in Milkovich. The Court ruled that there is no separate opinion privilege, but because factual truth is a defense to a libel claim, an opinion with no "provably false factual connotation" is still protected.

Thompson v. Clark (2022)

Malicious prosecution

Thompson was a U.S. Supreme Court case concerning whether a plaintiff suing for malicious prosecution must show that he was affirmatively exonerated of committing the alleged crime. The Supreme Court, in a 6-3 opinion authored by Justice Brett Kavanaugh held that "*no such requirement exists and that a plaintiff suing for malicious prosecution in the context of a Fourth Amendment claim need only show that his prosecution ended without a conviction.*" Media coverage of the decision portrayed the Court's ruling as a victory for civil rights lawsuits.

US v. Jacobsen (1984)

Definition of seizure

"A seizure of property occurs under the Fourth Amendment when police intentionally interfere with an individual's possessory interests in their property"

Irizarry v. Yehia (2022)

Qualified immunity dissolved

In a 2022 ruling, the court denied qualified immunity to an officer who physically obstructed a journalist from filming by standing in front of him and shining a flashlight into his camera. The 10th Circuit ruled this act was an obvious violation of a clearly established Constitutional right. The court opined that the same principle would likely apply to other forms of interference, such as using copyrighted music to sabotage recordings, if done with the intent to suppress documentation.

On May 26, 2019, Plaintiff-appellant Abade Irizarry, a YouTube journalist and blogger, was filming a DUI traffic stop in Lakewood, Colorado. Officer Ahmed Yehia arrived on the scene and stood in front of Irizarry, obstructing his filming of the stop. When Irizarry and a fellow journalist objected, Officer Yehia shined a flashlight into Irizarry's camera and then drove his police cruiser at the two journalists. The district court nonetheless held that Officer Yehia was entitled to qualified immunity because Irizarry had not shown a violation of clearly established law. The U.S. 10th Circuit found the complaint alleged a First Amendment retaliation claim under clearly established law, so Officer Yehia was not entitled to qualified immunity. Accordingly, judgment was reversed. Judge Matheson wrote "*We have no doubt that Mr. Irizarry had a clearly established First Amendment right to film the traffic stop in May 2019. Videorecording [sic] is "unambiguously" speech-creation, not mere conduct*" ~ U.S. Court of Appeals, 10th Circuit.

Sharpe v. Winterville, NC (2021)

Creating and disseminating information is protected speech under the First Amendment.

The U.S. Court of Appeals for the Fourth Circuit held that the First Amendment protects a passenger who live streams the traffic stop of the car he is traveling in. In October of 2018, Dijion Sharpe, sitting in the passenger seat of a stopped car, took out his phone and started live streaming on Facebook. When the officer saw that Sharpe was live streaming, he grabbed Sharpe and tried to take the phone. The officer explained that Sharpe was free to record the encounter, but he could not live stream due to supposed concerns about officers' real-time safety (a policy later ascribed to the City of Winterville, NC). Sharpe sued to vindicate his First Amendment rights. North Carolina's Fourth Circuit held that individuals have a First Amendment right to live stream their own traffic stops. The court rightly acknowledged, "*Creating and disseminating information is protected speech under the First Amendment*". In so holding, the Fourth Circuit stated "*We agree with other courts that have recognized that the First Amendment 'covers recording-particularly when the information involves matters of public interest like police encounters ... Recording police encounters creates information that contributes to discussion about governmental affairs. So too does live streaming disseminate that information, often creating its own record.'*"

Pulliam v. County of Fort Bend, TX (2024)

Government does not have the right to decide who is Press, and who is not.

U.S. District Judge George C Hanks, Jr. court ruled that public entities are not allowed to make distinctions about what kinds of people or entities are protected by the First Amendment with regards to news gathering activity. The United States District Court, Southern District of Texas ruling finds that Sheriff Eric Fagan infringed Justin Pulliam's rights by excluding him from a press conference in a public park that he was trying to record for his YouTube channel. The court ruled not only that Fort Bend County violated Justin's free-speech rights, but that his rights were so clearly established that Sheriff Fagan has no qualified immunity, a dubious doctrine the Supreme Court developed to shield officials from accountability for their constitutional violations.

"Today's victory establishes that the government cannot give favorable access to the traditional media by discriminating against social-media journalists," said Institute for Justice Attorney Christie Herbert. "To the First Amendment, all speakers are equal, a bedrock principle necessary for twenty-first-century journalism."

Berge v. School Committee of Gloucester, MA (2024)

Right to publish

The Court held there is a "right to publish" under the First Amendment, and the citizen-journalist's posting of his recordings of his discussions with school officials fell squarely under that constitutional protection. The Court found that his questioning of school officials about the school's COVID-19 policy was a "matter of public concern" that he had a constitutional right to publish by posting his recording on Facebook. The Court also found that the Massachusetts state law prohibiting recording without two-party consent only applied to "secret recordings", and did not apply in this case where the citizen-journalist was openly recording in public areas of the school offices.

Anderson v. City of Hermosa Beach, 9th Circuit (2010)

Public photography and video is Constitutionally protected speech.

"[W]e have never seriously questioned that the processes of writing words down on paper, painting a picture, and playing an instrument are purely expressive activities entitled to full First Amendment protection."

Animal Legal Defense Fund v. Wadsen, 9th Circuit (2018)

Public photography and video is Constitutionally protected speech.

"The act of recording is itself an inherently expressive activity; decisions about content, composition, lighting, volume, and angles, among others, are expressive in the same way as the written word or a musical score."

Fields v. City of Philadelphia, U.S. 3rd Circuit, (2017)

Public photography and video is Constitutionally protected speech.

"The First Amendment protects actual photos, videos, and recordings, and for this protection to have meaning the Amendment must also protect the act of creating that material."

City of Chicago v. Morales (1999)

The charge of loitering must accompany another offense

There is no "loitering" unless the person is also doing something prohibited such as blocking a sidewalk, trespassing, etc. *"It is difficult to imagine how any citizen of the city of Chicago standing in a public place with a group of people would know if he or she had an apparent purpose."*

Cordova v. Colorado Springs, (2025)

Police abuse of Resisting, delaying, obstruction nationwide

Police officers across the nation use "obstruction" and "interference" charges too liberally.

"The use of it seems to be becoming abusive. They are not focused on the actual physical act or threat that would impede the officers work, but instead a more generalized feeling that this is in some way distracting... And that is not the law."

State v. Butler, NC (1992)

Terry stop requires reasonable suspicion of a crime afoot

In North Carolina, lawful stops are based on reasonable suspicion. An officer must have specific and articulable suspicion of criminal activity before initiating a Terry stop and requesting Identification.

Turner v. Lieutenant Driver, U.S. Court of Appeals, 5th Circuit (2017)

Refusal to ID absent crime

Absent another crime, arresting an individual simply for failing to ID himself to police is an unlawful arrest and is unconstitutional under the Fourth Amendment.

Phillip Turner was video recording a Fort Worth police station from a public sidewalk across the street when Fort Worth officers Grinalds and Dyess approached him and asked him for identification. Turner refused to identify himself, and the officers ultimately handcuffed him and placed him in the back of a patrol car. Turner brought a civil rights lawsuit against the officers in federal district court. The appellate court denied qualified immunity to the two officers for unlawful arrest and allowed Turner's claim to proceed.

The court opined, *"Handcuffing Turner and putting him in the police car was an arrest that required probable cause. The officers did not have probable cause to arrest Turner just for refusing to identify himself. Turner did not make any threats against the officers, did not [attempt] to leave or flee, and did not take any aggressive actions. The only potential reason the officers gave Turner for arresting him that can be gleaned from the amended complaint is Turner's failure to identify himself."*

Florida v. JL (2000)

Anonymous tip without crime does not justify Terry stop

Florida v. JL is a United States Supreme Court case in which the Court determined that a police officer may not legally stop and frisk someone based solely on an anonymous tip that describes a person's location and appearance, but does not furnish information as to any illegal conduct. In layman's terms, a phone call does not create reasonable suspicion of a crime.

"For a completely anonymous tip to justify even a "stop and frisk" of a suspect pursuant to Terry v. Ohio, it must be "suitably corroborated" with both the accurate prediction of future activity of the subject AND accurate in its assertion of potential criminal activity. The tip given in the J.L. case was only sufficient to identify the subject and nothing more, making the police reliance upon it unjustified." ~United States Supreme Court Justice Ruth Bader Ginsburg

Tinker v. Des Moines (1969)

Uncomfortable due to videoing in public is not a crime

"Undifferentiated fear or apprehension of disturbance is not enough to overcome freedom of expression. Government officials need more than a mere desire to avoid discomfort and unpleasantness that always accompanies an unpopular viewpoint."

Milam V. United States, 9th Circuit (1974)

Nervous is not reasonable suspicion

"Nervousness is not a reliable indicator of criminal behavior"

Fordyce v City of Seattle, U.S. Court of Appeals, 9th Circuit (1995)

Police cannot prevent recording in public

"Officers could not "prevent or dissuade" the plaintiff from exercising his First Amendment right to film matters of public interest."

Rodriquez V State (2009)

Trespass warning is consensual encounter

"A stop merely to issue a no trespass warning is not a Terry stop, but a consensual encounter. As a result, a citizen's refusal to provide accurate identification during such an encounter would not be an arrestable offense."

United States V Robinson (1980)

Cop cannot ignore exculpatory facts to establish reasonable suspicion

"A police officer cannot disregard facts which tend to dispel reasonable suspicion in a self-serving attempt to continue an investigatory stop beyond the scope of the momentary detention contemplated by the Terry decision and its progeny."



SPEECH UNDER ATTACK