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 legally carrying a concealed weapon with a permit (NCGS 14-415.11).
*Watch Ja'Lana Dunlap V. City of Fayetteville, NC (pending as of April '25)

Branzburg v. Hayes (1972)
"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."

Rodriguez v. United States (2015)
Extending a traffic stop to address matters unrelated to the original reason for the traffic stop without Reasonable Articulable Suspicion is unconstitutional.

State v. Leigh, NC (1971)
"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."

City of Houston v. Hill (1987)
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."

Chaplinksy v. New Hampshire (1942)
"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)
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.” It 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
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)
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 anothers lyric” and there was no principled basis for removing any particular word or term from the “public vocabulary.”

Lewis v. City of New Orleans (1974)
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.
In opinion written by Justice Brennan, the Court found the ordinance over broad.

State v. Humphreys, NC (2020)
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 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 State v. 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 remonstration 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". 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."

Thurairajah v. City of Fort Smith (2023)
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. Duncan (2011)
The mere presence of a firearm does not automatically justify a 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."

United States v. Black (2013)
Legal open carry of a firearm cannot be justification for a Terry stop.
"Where a state permits individuals to openly carry firearms, the exercise of this right, without more, cannot justify an investigatory detention."

Salinas v. Texas (2013)
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.

DeBerry v. U.S.
A firearm where legally carried cannot be the only basis for a Terry stop.

Cruise-Gulyas v. Minard (2019)
"Flipping off" police cannot justify traffic stop. Vulgar gestures towards police are protected speech under the 1st Amendment to the U.S. Constitution.

Cohen v. California (1971)
First Amendment right to be critical of Government by use of profanity.

Riley v. California & U.S. v. Wurie
Police cannot search phone incident to arrest. A warrant must be obtained absent consent of the owner.

Smith v. Daily Mail (1979)
Journalist can use a minors name in news stories as long as info is legally obtained and truthfully reported.

Brown v. Texas (1979)
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. Veilleur (2014)
Refusal to ID to police while detained is insufficient to support a conviction for obstructing a Law Enforcement Officer.

Nussenzweig v. diCorcia (2007)
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*.

Florence v. City of Lakeland
A stop merely to issue a trespass warning is not a Terry Stop, but rather a consensual encounter.

Horton v. California
Plain view doctrine: Discovery of evidence does not have to be inadvertent. 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 and screaming alone does not take a plaintiff's conduct out of the realm of speech."

New York Times v. Sullivan (1964)
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)
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.

Warren v. District of Columbia (1981)
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*

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

DeShaney v. Winnebago County
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)
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 to address matters unrelated to the original reason for the traffic stop without reasonable, articulable suspicion is unconstitutional.

State v. Samantha Elabanjo, NC (2011)
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, "Y*ou 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.

United States v. Manning, (2013)
There is no difference between a 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."

Obsidian Finance Group v. Cox (2014)
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 to not turn on whether the defendant was a trained journalist, formally affiliated with traditional news entities*" the court wrote.

Katz v. United States (1967)
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)
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)
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)
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, censorship 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.*

Presser v. Illinois (1886)
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 v. Illinois, 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 it's 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*".

Marbury v. Madison (1803)
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. Lyles, NC (2008)
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.*"

State v. Watkins, NC (1994)
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)
"An officer may briefly detain a suspect when responding to and observing activity reasonably calculated to be criminal activity."

State v. Friend, NC (2014)
Defendant correctly points out the Court in *Friend* does not require a government-issued identification, although officers may require defendants to present verifiable identification.