

CMPD POLICE LAW BULLETIN

A Police Legal Newsletter

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Forward: In this Index to last year's Police Law Bulletins we provide a **Subject Index** for Reminders topics in addition to an index for **Case Law Summaries**.

SUBJECT INDEX

REMINDERS

February 2017

- NCGS 15A-402, Territorial Jurisdiction of Officers to Make Arrests
- New Search Warrant Template

June 2017

- South Carolina Dealer Temporary License Plates
- Requesting Name or Identification from Passengers during Traffic Stops

October 2017

- Authority to Act as Agent Forms

Legislative Edition

- Golf Carts
- Search Warrants and Court Orders

December 2017

- Discussion: Criminal Summons vs. Arrest Warrant

LEGISLATION

Legislative Edition

- Child Custody
- Criminal Law
- Motor Vehicles
- Controlled Substances

CASE LAW SUMMARIES

UNITED STATES SUPREME COURT

February 2017

- Qualified Immunity / Use of Force: [Ray White, et al., Petitioners v. Daniel T. Pauly, as Personal Representative of the Estate of Samuel Pauly, Deceased, et al., 580 U.S. _____ \(2017\)](#). An officer will be dismissed from a civil lawsuit unless the plaintiff can show that the use of force violated a clearly established statute or specific case law.

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June 2017

- Use of Force: [County of Los Angeles, California, et al. v. Mendez et al., US \(May 30, 2017\)](#). Whether a use of force is objectively reasonable is based on what information the officers had when the use of force occurred and not separate prior constitutional violations.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

February 2017

- Fourth Amendment / Search and Seizure / Concealed Carry Permit: [United States v. Robinson, 846 F.3d. 694 \(4th Cir. 2017\)](#). An officer who makes a lawful stop, and who has reasonable suspicion that a subject is armed, may frisk that individual for the safety of officers and others.

June 2017

- Traffic Stop: [United States v. Hill, 849 F.3d 195 \(4th Cir. 2017\)](#). Applying the legal standards controlling in 2012, the deputy diligently pursued the purpose of the stop during the thirty-three minute encounter.
- Illegal Arrest: [Smith v. Munday, 848 F.3d 248 \(4th Cir. 2017\)](#). The minimal record check by the officer raised merely suspicion and lacked any evidence to identify Defendant as the suspect.

October 2017

- Fourth Amendment / Scope of the Stop: [United States v. Hill, 852 F.3d 377 \(4th Cir. 2017\)](#). The officer did not act unreasonably because he was diligent in performing tasks incident to the initial purpose of the stop.
- Fourth Amendment / Search and Seizure / Inventory Searches / Inevitable Discovery: [United States v. Bullette, 854 F.3d 261 \(4th Cir. 2017\)](#). It was reasonable for officers to conduct a warrantless search of a vehicle located on private property because the evidence would have inevitably been found during an inventory search after impoundment.
- Qualified Immunity / Arrest Warrants: [Safar v. Tingle, 859 F.3d 241 \(4th Cir. 2017\)](#). The officer was dismissed from a lawsuit pursuant to qualified immunity because no duty existed requiring him to withdraw the arrest warrant.
- Interrogations / *Miranda* / Coercion: [United States v. Giddins, 858 F.3d 870 \(4th Cir. 2017\)](#). Officers violated the 5th Amendment by coercing the suspect into waiving his *Miranda* rights.

December 2017

- Fourth Amendment / Qualified Immunity / Deadly Force / Armed Subject / Failure to Warn: [Hensley v. Price, 2017 U.S. App. LEXIS 23258 \(4th Cir. Nov. 17, 2017\)](#). Based on the facts plead by the Plaintiff, a reasonable jury could find that the force was unreasonable under the Fourth Amendment.

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- Fourth Amendment / Qualified Immunity / Deadly Force / Moving Vehicle: [Brown v. Elliot, 876 F.3d 637 \(4th Cir. 2017\)](#). Deputy Elliot did not violate clearly established law when he discharged his firearm at Lawhorn while leaning into the window of a moving truck.

NORTH CAROLINA SUPREME COURT

February 2017

- Fourth Amendment / Search and Seizure / Probable Cause / Reasonable Inferences: [State v. Allman, 794 S.E.2d 301 \(2016\)](#). Probable cause existed under the totality of the circumstances because it was reasonable for the magistrate to infer that the suspects were drug dealers, and that evidence of drug-dealing would be found in their residence.
- Fourth Amendment / Search and Seizure / Scope / Vehicle on Premises to be Searched: [State v. Lowe, 794 S.E.2d 282 \(2016\)](#). The search of the rental car in the driveway did not exceed the scope of the search warrant for the home.

October 2017

- Drive While Impaired / HGN / Rule 702 / Expert Testimony: [State v. Godwin, 800 S.E.2d 47 \(2017\)](#). An officer who has successfully completed training in the HGN test may testify to the results of that test without being qualified as an expert witness.
- Fourth Amendment / Driving While Impaired / Warrantless Blood Draw: [State v. Romano, 800 S.E.2d 644 \(2017\)](#). The officer's actions violated the Constitution because she did not take the blood sample pursuant to a search warrant, consent, or exigent circumstances.

December 2017

- Fourth Amendment / Duration of Traffic Stop / Reasonable Suspicion: [State v. Bullock, 2017 N.C. LEXIS 896 \(Nov. 3, 2017\)](#). The officer did not unreasonably extend the duration of the traffic stop by asking the driver to step out of his vehicle and submit to a brief frisk before putting the driver in his squad car while he conducted a records check.
- Fourth Amendment / Seizure of Person: [State v. Wilson, 2017 N.C. LEXIS 1014 \(Dec. 22, 2017\)](#). A reasonable person would not have felt compelled to stop to talk to Officer Johnson.

NORTH CAROLINA COURT OF APPEALS

February 2017

- Fourth Amendment / Search and Seizure / Confidential Informants: [State v. Brody, 2017 N.C. App. LEXIS 41](#). Probable cause existed under the totality of the circumstances and the officer was not required to specify the results of previous tips from the informant.
- Fifth Amendment / *Miranda* / Voluntary Waiver: [State v. Johnson, 2017 N.C. App. LEXIS 33](#). The officers' influence caused the Defendant to make an involuntary waiver of his *Miranda* rights and the confession should have been suppressed.

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June 2017

- Probation Search: [State v. Powell, 2017 N.C. App. LEXIS 375 \(2017\)](#). G.S. 15A-1343(b)(13) requires some reasonable facts as to the purpose of a warrantless search of a probationer's residence beyond "in the interest of law enforcement."
- Curtilage Search: [State v. Huddy, 2017 N.C. App. LEXIS 281 \(2017\)](#). Neither the knock and talk doctrine nor the community caretaker doctrine permitted a warrantless search of the home's curtilage.
- Assault on a Government Official: [State v. Mylett, 2017 N.C. App. LEXIS 274 \(2017\)](#). Assault on a government official is a general intent crime requiring that the defendant knew the individual was an officer discharging a duty of the office and the officer was assaulted.
- Admission of Photographs: [State v. Little, 2017 N.C. App. LEXIS 279 \(2017\)](#). Photographs from Facebook and Instagram can be introduced to illustrate the testimony of a witness if they are used by to illustrate or explain anything that the witness can describe in words.
- Constructive Possession: [State v. Rice, 798 S.E. 2d 432 \(2017\)](#). When a defendant does not have exclusive possession of a vehicle the State must show other incriminating evidence to show the defendant constructively possessed the stolen items.

MISCELLANEOUS

CASES PENDING BEFORE U.S. SUPREME COURT

June 2017

- [16-402](#), decision below [Carpenter v. United States, 819 F.3d 880 \(6th Cir. 2016\)](#). Question Presented: Whether the warrantless seizure and search of historical cell phone records revealing the location and movements of a cell phone user over the course of 127 days is permitted by the Fourth Amendment.

December 2017

- [16-1027](#), decision below [Collins v. Virginia, 790 S.E.2d 611](#). Question Presented: Whether the Fourth Amendment's automobile exception permits a police officer, uninvited and without a warrant, to enter private property, approach a home, and search a vehicle parked a few feet from the house.

DISCUSSION

December 2017

- Criminal Summons vs. Arrest Warrant

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