# Circuit Courts of Appeals â?? December 2020

## Description

## First Circuit

### United States v. Simpkins, 978 F.3d 1 (1st Cir. 2020)

Based on information provided by a credible informant, the Maine State Police established probable cause that the defendant, Rob Simpkins, was transporting controlled substances into the state. Once within their jurisdiction, the officers conducted a high-risk traffic stop, in part, because they learned from an August 2017 â??mental wellness checkâ?• that the defendant owned firearms. The officers ordered the defendant out of his vehicle at gunpoint and immediately handcuffed him. One officer patted him down for weapons. During this pat-down the officer asked the defendant if there was â??anything onâ?• him. The defendant stated that he had a pocketknife. The officer â??noticedâ?• something in the defendantâ??s pocket during the pat-down, apparently by feel, and asked, â??Whatâ??s that?â?• The defendant replied that it was, â??just a little bit of fentanyl.â?• Soon thereafter, the officers arrested the defendant and read him the Miranda Warnings.

The defendant later objected to the governmentâ??s use of his â??fentanylâ?• statement made during the pat-down because it was made: 1) in response to the governmentâ??s questions; 2) while in custody; and, 3) without having been provided his Miranda warnings. The court was not willing to concede the fact that the defendant was â??in custodyâ?• when he replied to the officerâ??s question of â??Whatâ??s this?â?• However, even if it came to that conclusion, the court found that Simkinâ??s statement was not made in violation of the Miranda decision.

Like many general rules, the Miranda rule has itsâ?? exceptions. Perhaps the most important one is the permission of officers to ask questions necessary to secure his or her own safety or the safety of others. This is generally known as the public safety exception to the Miranda requirements. Provided that the officer asks the question in relation to an â??objectively reasonable needâ?• to address an â??immediate danger,â?• the court will allow the unwarned questioning to occur. Here, the court concluded that the officerâ??s question which elicited the defendantâ??s â??fentanylâ?• statement arose out of an objectively reasonable concern for his safety rather than some sort of sly effort to obtain testimonial evidence. The officer posed the question in furtherance of a reasonably conducted check for weapons. Furthermore, it followed closely on the heels of the defendantâ??s admission that he possessed a weapon in the form of a pocketknife. Under the public safety exception, the trooper was not required to make a split-second decision about whether to subordinate his immediate safety concerns to the admissibility of any answers he might receive to his pat-down-related questions. Therefore, the court concluded that the defendantâ??s statements falls under the public safety exception. The state did not act in violation of his Miranda protections.

For the courtâ??s opinion: https://cases.justia.com/federal/appellate-courts/ca1/19-1948/19-1948-2020-10-15.pdf?ts=1602779403

## Fifth Circuit

### Rountree v. Lopinto, 976 F.3d 606 (5th Cir. 2020)

While driving her sonâ??s car, Mary Rountree had a minor accident with a parked vehicle. She got out briefly to check for damage and then drove off. A surveillance camera caught the incident on video, which resulted in a complaint with the Sheriffâ??s Office. The Sheriffâ??s Office sent James Rountree, the vehicleâ??s owner and plaintiff, a letter informing him that his car had been involved in an accident and requesting that he set up an appointment with the hit-and-run office within seven days. James Rountree lived outside of the Unites States, but his father responded to the letter. He acknowledged that the vehicle belonged to his son but that no hit-and-run had occurred because there was no damage.

An investigating officer spoke to Mr. Rountreeâ??s father on the phone and later went to his parentsâ?? apartment in an unsuccessful effort to speak with either Mr. or Mrs. Rountree. Soon thereafter, the officer inspected the parking lot of the apartment complex and discovered Rountreeâ??s vehicle. He noted damage to the driverâ??s-side rear bumper consistent with where he expected damage to be from the accident. The officer called a wrecker and had the vehicle towed. He then left a notice on the apartment door and left.

Some weeks later, the Sheriffâ??s Office sent the plaintiffâ??s father a letter informing him that the evidentiary hold on the vehicle had been removed. The plaintiffâ??s father and mother went to the towing yard to recover the vehicle but, since it was registered in the plaintiffâ??s name, the towing company refused to release the vehicle to the plaintiffâ??s parents. The plaintiff visited the United States the following month and paid $1,674.58 to have his vehicle released.

The plaintiff sued the investigating officer, alleging that the seizure was unlawful. The officer moved for summary judgment, asserted that the seizure was lawful and, if not, that he was entitled to qualified immunity. To overcome this defense, at a minimum, the plaintiff must show the defendant violated his constitutional rights. The court noted that under the Fourth Amendmentâ??s automobile exception the government can seize a vehicle from a public area without a warrant when it has probable cause to believe that the vehicle itself is an instrument or evidence of crime. Though a private apartment parking lot is not â??public,â• neither is it â??privateâ• in the sense relevant for Fourth Amendment protection. There is no reasonable expectation of privacy in a shared apartment parking lot. The officer was entitled to make seizures there. Further, the court found that, as there was probable cause to believe the car was an instrument or evidence of crime, a warrant was not required to seize it. Therefore, the seizure did not violate the Fourth Amendment and the officer was entitled to qualified immunity.

For the courtâ??s opinion: https://cases.justia.com/federal/appellate-courts/ca5/20-30111/20-30111-2020-10-02.pdf?ts=1601681416

### United States v. Beaudion, 979 F.3d 1092 (5th Cir. 2020)

During a narcotics investigation, police officers learned that Matthew Beaudion and his girlfriend, Jessica Davis, were planning to drive from Houston, Texas, to Monroe, Louisiana, with four pounds of methamphetamine. As such, a confidential informant (CI) then called Davis on her cell phone to

arrange a meeting to purchase methamphetamine.

Using this information, officers obtained a search warrant to obtain the GPS coordinates of Davisâ??s cell phone from Verizon over a sixteen-hour period. When Verizon indicated that Davis was passing through Shreveport, Louisiana, heading towards Monroe, officers conducted a traffic stop. The officers searched the coupleâ??s car and found methamphetamine. The officers arrested Davis and Beaudion and recovered Davisâ??s cell phone from her purse.

The government charged Beaudion with conspiracy to possess with intent to distribute methamphetamine. Beaudion filed a motion to suppress the drugs seized during the stop, arguing that the warrant that authorized the GPS tracking of Davisâ??s cell phone failed to comply with the Stored Communication Act (SCA).

As an initial matter, the district court held that Beaudion did not have standing to challenge the search of Davisâ??s cell phone. Before a person can challenge the legality of a search, it must be established that the person had a reasonable expectation of privacy in the area or item searched by the government. This concept of â??Fourth Amendment standingâ?• only allows individuals to challenge governmental searches when they allege their â??own Fourth Amendment rights were infringed by the search or seizure they seek to challenge.â?• By denying Beaudionâ??s motion to suppress the evidence for lack of standing, the court did not decide whether the search warrant complied with the SCA. Afterward, Beaudion plead guilty, however, he reserved the right to appeal the denial of his motion to suppress to the Fifth Circuit Court of Appeals. On appeal, Beaudion claimed that he had a reasonable expectation of privacy in Davisâ??s cell phone; therefore, the district court erred in denying his motion to suppress the drugs seized during the stop. Specifically, Beaudion claimed that he had a reasonable expectation of privacy in Davisâ??s cell phone based on the following facts: 1) he purchased the phone and gave it to Davis; 2) he had permission to use the phone; 3) he has password access to the phone; 4) he accessed his Facebook account from the phone; and, 5) he used the phone to capture intimate videos of him and Davis.

The court held that the Beaudionâ??s first fact was irrelevant, as a person does not have standing to challenge a search or seizure of property that was voluntarily abandoned or conveyed to another person. Next, the court found that the third fact alleged by Beaudion was not supported by any evidence presented in the district court. Finally, the court determined that facts two, four, and five were, in essence, a claim that Beaudion sometimes used Davisâ??s phone for personal activities. However, the court added, there was no indication that Beaudion ever used or possessed the phone outside of Davisâ??s presence or how often he accessed Facebook or captured intimate videos. Instead, the court noted that: 1) Davis was the primary user of the phone; 2) Davis had the phone number long before she met Beaudion; 3) Davis maintained possession of the phone throughout the day of the arrest; and, 4) Davisâ??s parents paid the phone bill. Based on these facts, the court concluded that while Beaudion might have expected privacy in Davisâ??s phone, this expectation of privacy was not reasonable. As a result, the court found that Beaudion did not have Fourth Amendment standing to challenge the search of Davisâ??s phone. Next, the court held that even if Beaudion had standing to challenge the GPS search of Davisâ??s phone, the search warrant complied with the SCA. Beaudion claimed the SCA required the government to establish probable cause that the subscriber or customer was involved in criminal activity. Beaudion argued that the search warrant was improperly issued under the SCA because Davisâ??s parents were the relevant Verizon subscribers.

The court disagreed. The court noted that the SCA authorizes the government to â??obtain a warrantâ?• from a state â??court of competent jurisdictionâ?• using â??state warrant proceduresâ?• upon a â??showing that there are reasonable grounds to believe that the . . . information sought is relevant to an ongoing criminal investigation.â?• The court found that the warrant in this case complied with these provision; therefore, it was properly issued by the state-court judge.

For the courtâ??s opinion: https://cases.justia.com/federal/appellate-courts/ca5/19-30635/19-30635-2020-11-11.pdf?ts=1605119487

## Sixth Circuit

### United States v. Blomquist, 976 F.3d 755 (6th Cir. 2020)

The police went to a property owned by Lee Blomquistâ??s father to search for marijuana. The search warrant authorized a full search of the property. Once there, the officers detained Blomquist, the defendant, placed him in handcuffs and advised him of his Miranda rights. The defendant was willing to waive his rights and cooperate with the police because, as he stated to them, the state authorized his business as a medical-marijuana grow operation. The defendant was willing to show the officers paperwork and provide them a tour. The officers removed the handcuffs and began the tour. The defendant took the officers to his fatherâ??s garage and gave them a binder of materials, which he claimed validated his business. The officers asked the defendant if he would show them where he was growing the marijuana, and he said he would. He then led the officers into a nearby chicken coop and showed them five small rooms with scores of marijuana plants. The defendant explained that he moved the marijuana plants from the chicken coop to nearby greenhouses in warmer weather, where he took the officers next. At no point during this interaction did the defendant suggest that the structures were on someone elseâ??s property, nor was there any visible evidence â?? such as a fence, barrier, or tree line â?? indicating as much.

The officers asked the defendant where he stored the processed marijuana, and the tour continued. He brought them back to his fatherâ??s garage, pulled down a ladder, and led them up to a locked room in the attic. He unlocked the door and let them in. The room contained around 37 pounds of marijuana, pre-packaged into baggies.

The officers later learned that the defendantâ??s medical-marijuana operation was not even close to legal. He had broken a host of federal and state laws the state subsequently charged him with a series of offenses.

The defendant asked the court to suppress the evidence obtained during the search. The defendant argued that the officers exceeded the scope of their search warrant after he established that the chicken coop and greenhouses were not on the property covered by that warrant. The defendant leased this adjacent property from the owner.

The court found that the defendant voluntarily consented to the search of the premises by giving the officers a tour of his operation. For consent to be valid, it must be â??free and voluntary,â?• which the government bears the burden of demonstrating by a preponderance of the evidence. The court evaluates questions of the validity of consent by considering two questions: 1) whether an individualâ??s â??actions adequately demonstrated consent,â?• and, 2) whether â??other factors

contaminatedâ?• that consent.

First, did the defendantâ??s actions demonstrate consent? After the officers secured the defendant and informed him of his rights, he voluntarily showed them his medical-marijuana papers. The officers examined the papers and asked the defendant if he would show them his growing operation. He agreed and the tour commenced. The defendant led and the officers followed. The officers never forced their way into the outbuildings, never told the defendant they would go in without his permission, nor stated that their warrant enabled such a search. In short, the court found that the defendantâ??s actions demonstrated consent.

Second, the court considered whether other factors contaminated the defendantâ??s consent, which it examined by looking at the totality of the circumstances. The court considered factors such as: the age, intelligence, and education of the individual; whether the individual understands the right to refuse to consent; whether the individual understands his or her constitutional rights; the length and nature of detention; and the use of coercive conduct by the police. The defendantâ??s primary complaint, which was that his consent was not voluntary because the officers detained him upon arrival, was rejected by the court.

The court noted that though the officers briefly detained and handcuffed the defendant as they secured the property, they also quickly give him his Miranda warning. The defendant was fully aware that the comments he shared with the officers could be used against him. The officers did not mistreat him, threaten him, or act unprofessionally in any way. Further still, the defendant offered to lead the officers on a tour of the operation, including those areas not covered by the search warrant. The court held that the record contained no reason to think that the defendant was uniquely susceptible to duress or coercion, he was a mature adult, held a high-school diploma and was a trained electrician. He also had an extensive criminal history, giving him ample experience with the police and legal system.

Based on these observations, the court held that the defendant voluntarily consented to the tour and denied his motion to suppress the evidence he showed the officers.

For the courtâ??s opinion: https://cases.justia.com/federal/appellate-courts/ca6/19-2112/19-2112-2020-10-07.pdf?ts=1602086415

## Eighth Circuit

### United States v. Crutchfield, 979 F.3d 614 (8th Cir. 2020)

Demetrius Crutchfield and another man, Tyler Cannon, were shot while standing at the front door of Crutchfieldâ??s home. Cannon drove himself to the hospital, and Crutchfield dragged himself into his bedroom and called 911. The first officer to arrive in the vicinity of Crutchfieldâ??s home saw a man, Antonio Harris, walking away. Harris knew Crutchfield had been shot and accompanied the officer to Crutchfieldâ??s home.

At Crutchfieldâ??s home, officers saw bullet holes near the front door of the residence. The officers entered and found Crutchfield in his bedroom, bleeding from a gunshot wound to his groin area, and an unfired rifle cartridge on the floor. At some point, an officer entered the kitchen and saw what he believed to be drugs on a table. The officer later stated that Harris entered the kitchen and seemed to

by trying to distract him and retrieve the suspected narcotics.

Outside the house, other officers discovered assault rifles and handguns. Some of the firearms were between Crutchfieldâ??s residence and another residence on the property and some beyond a fence on an adjacent, abandoned property.

After an ambulance took Crutchfield away, an officer re-entered the home and saw more suspected drugs on bedside table. Afterward, the officers obtained a warrant to search Crutchfieldâ??s home and seized, among other things, additional firearms and ammunition.

After Crutchfield plead guilty to one count of being a felon in possession of a firearm, he appealed the district courtâ??s denial of his motion to suppress the evidence seized from his residence. Crutchfield argued that the officersâ?? re-entry into his home, as a subsequent protective sweep, was unreasonable.

The 8th Circuit Court of Appeals disagreed. First, the court held that officersâ?? entry into Crutchfieldâ??s residence in response to the call for medical aid for a shooting victim did not violate the Fourth Amendment. Given the fact of the shooting and the other information known to the officers at the time, the court concluded that exigent circumstances made it reasonable to enter the residence and look into the rooms to ensure the absence of a shooter or additional victims. The court added that, while doing so, officers almost immediately saw ammunition and suspected narcotics in plain view.

Second, the court held that the officer in the kitchen did not unreasonably extend the duration of the protective sweep in that area. The court found that the officer in the kitchen remained there out of a concern that Harris was attempting to retrieve the suspected narcotics observed in plain view on the table.

Finally, the court held that no information obtained by officers who might have â??lingeredâ?• in the house during the initial entry, nor after their re-entry after the ambulance departed, aided in securing the search warrant. Instead, the court found that the officers relied on information obtained permissibly and almost immediately upon entry into Crutchfieldâ??s residence. The court added that to the extent that any officer might have exceeded the permissible scope of a security sweep, any such transgression led, at most, to the discovery of evidence that inevitably would have been discovered upon execution of the valid search warrant.

For the courtâ??s opinion: https://cases.justia.com/federal/appellate-courts/ca8/19-3767/19-3767-2020-11-02.pdf?ts=1604334619

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