

Compelling Case Citation Corner

U. S. v. Daye 8th Circuit Court of Appeals; January 16, 2024, 2024 U.S. App. LEXIS 955

The Court Held: Appellee's eighty-four months' imprisonment sentence for arson was proper because the district court properly found that appellee was not a career offender based on two convictions for Domestic Abuse Assault, Enhanced (DAAE) under Iowa Code § 708.2A(3)(b). The district court correctly ruled that career offender enhancement, U.S. Sentencing Guidelines Manual § 4B1.1, was not applicable as the DAAE convictions were not crimes of violence within the meaning of sentencing guidelines; DAAE is indivisible and not categorically a crime of violence.

White v. Pugh Minnesota District Court; October 12, 2023; 2023 U.S. Dist. LEXIS 183321

On April 19, 2022, White filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. White raised the following grounds for relief under the Fifth and Sixth Amendments:

- (1) the prosecutor failed to disclose Vierzba's terroristic threats conviction, which made her ineligible to possess a firearm
- (2) the prosecutor failed to disclose that Vierzba was on probation at the time of the offense and at trial;
- (3) the prosecutor knowingly elicited false testimony from Vierzba; and
- (4) his trial and appellate counsel were ineffective in failing to discover and use Vierzba's criminal history.

Holding: After a thorough review of the record, the magistrate judge determined that the evidence of Vierzba's criminal history was material, contrary to the state court decisions. In sum, the magistrate judge found that the "information about Ms. Vierzba's criminal record and resultant lifetime ban on firearms possession should have been presented to the jury. If it had been, there was a reasonable probability that 'the result of the proceeding would have been different.'" ECF No. 17, at 31. The magistrate judge also found that the prosecution's failure to disclose that Vierzba was on probation at the time of the offense and the trial to be a material omission in violation of Brady. In doing so, the magistrate judge determined that the Minnesota Court of Appeals unreasonably determined to the contrary. See Knowles v. Mirzayance, 556 U.S. 111, 123, 129 S. Ct. 1411, 173 L. Ed. 2d 251 (2009) (holding that in assessing a state court's decision, the court considers not whether it was correct, but rather whether it was "unreasonable," which is a "doubly deferential review").

United States v. McGrath Pennsylvania Middle District Court November 2, 2023, 2023 U.S. Dist. LEXIS 198008

Motion to suppress granted. Police conducted a fourth amendment "search" when they used flashlights to peer through the windows of D's home. Because "search by flashlight" was conducted without a warrant, and because gov failed to prove applicability of an exception to 4th amend warrant requirement, fruits of the search had to be suppressed.

United States v. Yates California Northern District Court; January 5, 2024, 2024 U.S. Dist. LEXIS 2934

ORDER DENYING MOTIONS TO DISMISS AND GRANTING MOTION TO SUPPRESS

Motion to suppress granted where police “unlawfully extended” a traffic stop by asking driver whether he was on probation or parole. During a traffic stop, police may lawfully ask questions that relate to “officer safety.” However, “inquiries about whether someone has completed the incarceration portion of their sentence but remains under supervision does not relate to officer safety.”

United States v. Rogers Kentucky Western District Court; October 27, 2023, 2023 U.S. Dist. LEXIS 193192

ORDER GRANTING MOTION TO SUPPRESS

Motion to suppress granted where gov failed to meet burden of proving applicability of “protective sweep” exception to the fourth amendment warrant requirement. Police secured arrest warrant for D. The warrant authorized entry into D’s trailer home, but only for the purpose of finding and arresting D. When police came on the scene, they found D standing in his driveway, and arrested him there. Police then conducted a warrantless search of D’s trailer and found drugs and drug paraphernalia in plain sight. Gov argued for application of the “protective sweep” exception to the fourth amendment warrant requirement. Under this exception, burden was on gov to prove that police had “reasonable suspicion” that the trailer harbored a person who “pos[ed] a danger to the officer or others.” Court found that the following facts were insufficient to meet the gov’s burden of proof: (1) police had info reflecting that D sold drugs to people who came inside his trailer; (2) CI told police that he had seen guns inside the trailer; (3) CI told police that he had purchased a gun inside the trailer; (4) D had a prior conviction for being a felon in possession; and (5) when D was arrested, two motorcycles and a pickup truck were parked outside the trailer.