Recent Court Decisions Relevant to Maine Law Enforcement Officers

UNITED STATES SUPREME COURT
U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT
MAINE SUPREME JUDICIAL COURT

2024 CASE LAW UPDATE

Dirigo Safety, LLC

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Preparer's Note

The preparer of this document reviewed the published decisions of the United States Supreme Court, the U.S. Court of Appeals for the First Circuit, and the Maine Supreme Judicial Court from September 2023 through August 2024. The document contains summaries of cases of general interest and relevance to Maine law enforcement officers. Accordingly, this document does not list all decisions of the three appellate courts.

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If a decision interests the reader, the entire text is available by clicking on the relevant Internet link. Given that court decisions are very fact-specific, it is advisable and highly recommended that the whole text of a decision be reviewed for a more comprehensive understanding, particularly before taking any enforcement or other action.

Questions, suggestions, or other comments?

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UNITED STATES SUPREME COURT

First Amendment – State Actor vs. Private Citizen

Lindke v. Freed

Decided March 15, 2024
https://www.supremecourt.gov/opinions/23pdf/22-611_ap6c.pdf

Issue: Is it "state action" when a government official blocks people from the official's personal social media account?

Facts: James Freed maintained a personal Facebook page. After being appointed city manager of Port Huron, Michigan, he continued using his Facebook page to post about his personal life. He also posted information about his job, such as news about city infrastructure efforts, communications from other officials, and surveys soliciting feedback from the public. Readers frequently commented on his posts, and Freed often responded to them. Occasionally, Freed deleted comments that he considered "stupid" or "derogatory." Lindke was a citizen of Port Huron who disagreed with city policies about COVID. After Lindke made dissenting comments on several of Freed's posts, Freed deleted the comments and blocked Lindke. Lindke sued, alleging that Freed's actions constituted state action that infringed on his First Amendment rights.

Held: Public officials have the right to free speech if the speech is made as private citizens, even on mixed-use social media accounts that include both public and private speech. In a unanimous decision, the U.S. Supreme Court held that speech is public and attributable to the state only if the official (1) possessed actual authority to speak on the state's behalf and (2) purported to exercise that authority when the official spoke on social media. The U.S. Supreme Court remanded this case back to the lower court to take another look at the specific facts using this new two-tiered test.

Second Amendment – Prohibited Persons

U.S. v. Rahimi

Decided June 21, 2024
https://www.supremecourt.gov/opinions/23pdf/22-915_8o6b.pdf

Issue: Does the federal statute prohibiting the possession of firearms by persons subject to domestic violence restraining orders violate the Second Amendment?

Facts: Rahimi was under a protection order for alleged assault against his ex-girlfriend, which explicitly prohibited him from possessing firearms. Police searched his home and found a rifle and a pistol, leading to Rahimi's indictment for violating a federal law that makes it unlawful for someone under a restraining order to possess firearms. Rahimi moved to dismiss the indictment on constitutional grounds but was denied. The U.S. Supreme Court decided *Bruen* (2022) as the appeal was pending. Rahimi argued that *Bruen* rendered the federal statute prohibiting him from possessing firearms unconstitutional, and the U.S. Court of Appeals for the Fifth Circuit agreed.

Held: The federal law prohibiting domestic abusers subject to protective orders from possessing guns is constitutional under the Second Amendment. The Supreme Court concluded that "[a]n individual found by a court to pose a credible threat to the physical safety of another may be temporarily disarmed consistent with the Second Amendment."

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Agency Authority to Issue Rule

Garland v. Cargill

Decided June 14, 2024
https://www.supremecourt.gov/opinions/23pdf/602us1r36_o7kq.pdf

Issue: Did ATF exceed its authority by issuing a rule that classified a bump stock as a "machinegun."[1]

Facts: For over a decade, the ATF maintained that bump stocks were not machine guns as defined by statute and issued interpretation letters confirming the position. Following the 2017 Las Vegas shooting, where a shooter used bump stocks in a massacre, public demand for a ban on bump stocks surged, leading to proposed legislation. Before Congress could act, ATF, responding to the tragedy and public sentiment, reversed its stance in 2018 and reclassified bump stocks as machine guns, exposing owners to criminal liability. Cargill surrendered his bump stocks due to this new regulation and filed a lawsuit challenging the ATF regulations, arguing that the ATF exceeded its authority in defining bump stocks as machine guns.

Held: ATF exceeded its statutory authority when it classified a bump stock as a machine gun. First, a semiautomatic rifle with a bump stock does not fire more than one shot with a single trigger function. The phrase "function of the trigger" refers to the physical movement of the trigger that activates the firing mechanism. With or without a bump stock, a semiautomatic rifle requires the trigger to be released and reset between each shot. The bump stock merely accelerates the rate of fire by causing these distinct trigger functions to occur in rapid succession. Still, it does not change the fundamental operation of the firearm. Each shot still requires a separate trigger function. Second, even if a bump stock-equipped rifle could fire multiple shots by a single trigger function, it would not do so "automatically" as required by the statute. Firing multiple shots with a bump stock requires ongoing manual input from the shooter, who must maintain the right amount of forward pressure on the rifle's front grip. In contrast, with a traditional machine gun, simply holding down the trigger causes continuous fire without additional manipulation. Because a bump stock requires this extra physical input, it does not meet the "automatically" requirement of the statutory definition.

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[1] The National Firearms Act of 1934 defines a "machine gun" as "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger." With a machine gun, a shooter can fire multiple times, or even continuously, by engaging the trigger only once. This capability distinguishes a machine gun from a semiautomatic firearm. With a semiautomatic firearm, the shooter can fire only one time by engaging the trigger. Using a technique called bump firing, shooters can fire semiautomatic firearms at rates approaching those of some machine guns. A shooter who bump fires a rifle uses the firearm's recoil to help rapidly manipulate the trigger. Although bump firing does not require any additional equipment, a "bump stock" is an accessory designed to make the technique easier. A bump stock does not alter the basic mechanics of bump firing, and the trigger still must be released and re-engaged to fire each additional shot.

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U.S. Court of Appeals for the First Circuit

Fifth Amendment – Miranda Waiver
U.S. v. Donald
Decided October 16, 2023
http://media.ca1.uscourts.gov/pdf.opinions/22-1723P-01A.pdf

Issue: Were incriminating statements obtained in violation of *Miranda*?

Facts: The defendant was charged with several drug crimes and being a felon in possession of a firearm. The defendant filed a motion to suppress his statements to law enforcement immediately following his arrest. During questioning, the defendant sought to extricate himself from a bad situation by intimating cooperation. Before signing a *Miranda* waiver, the defendant asked the officer, "None of this can be used against me, can it? The officer responded, "No." The District Court could not conclude from the taped conversation if the officer said "no" and denied the motion to suppress.

Held: The Appeals Court concluded that the officer said "no" in response to the defendant's question – "None of this can be used against me, can it?" – and that the "no" response rendered the defendant's purported *Miranda* waiver invalid. The Court vacated the conviction, holding that the District Court erred by failing to suppress the incriminating statements. The government could not satisfy its burden to show that the defendant validly waived his rights under *Miranda*.

Fifth Amendment – Miranda Invocation (Maine Case)
U.S. v. Cowette
Decided December 12, 2023
http://media.ca1.uscourts.gov/pdf.opinions/22-1534P-01A.pdf

Issue: Did the defendant invoke her Fifth Amendment right to counsel?

Facts: The defendant appealed the District Court's denial of her motion to suppress statements she made to officers. She argued that she invoked her Fifth Amendment right to counsel, and any subsequent questioning violated that right.

Held: The First Circuit agreed with the defendant and held that she properly invoked her Fifth Amendment right to counsel when she said, "I guess my best bet would probably be to not talk until I have a lawyer." She reiterated similar phrases while being advised of her *Miranda* rights. The Court found that this phrase created no ambiguity and constituted a clear invocation of her right to counsel.

Fourth Amendment – Search Incident to Arrest (Maine Case)
U.S. v. Perez
Decided December 28, 2023
https://www.ca1.uscourts.gov/sites/ca1/files/opnfiles/22-1121P-01A.pdf

Issue: Was the search of the defendant's backpack a Fourth Amendment violation?

Facts: On the night of his arrest, Perez had been seen acting suspiciously in a McDonald's parking lot in Lawrence, Massachusetts. When he left the lot, carrying a backpack, state troopers monitored

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him. He was seen exiting a taxi, and large quantities of cash were found in the vehicle, arousing suspicion that he had been involved in a drug transaction. A state trooper approached him when Perez returned to the McDonald's lot. Perez ran but was caught and arrested, and the backpack was removed from him and searched. The search revealed it contained fentanyl and cocaine. The District Court denied Perez's motion to suppress the evidence found in the backpack.

Held: The Court rejected the notion that Perez's backpack could be considered separate from his person at the time of arrest. As such, it fell within the search-incident-to-arrest exception to the Fourth Amendment's warrant requirement.

Fourth Amendment – Bail Search (Maine Case)
U.S. v. Gerrish
Decided March 15, 2024
https://caselaw.findlaw.com/court/us-1st-circuit/115937927.html

Issue: Did the "bail search" of the defendant's vehicle violate the Fourth Amendment?

Facts: The defendant, Gerrish, challenged the constitutionality of a search of his vehicle during his pretrial release on several state criminal charges. Gerrish was subjected to at least six different bail conditions, five allowing for searches of his person, vehicle, or residence at any time without reasonable suspicion. The search in question led to the discovery of fentanyl and other contraband. Gerrish argued that the search of his vehicle was unconstitutional despite the terms of his bail conditions. The District Court denied his motion to suppress the evidence, citing two reasons: the officers had reasonable suspicion of criminal activity, and Gerrish's bail conditions permitted such a search.

Held: On appeal, the defendant argued that the district court's reasons were incorrect. The appeals court, however, only focused on the bail condition rationale, which it found conclusive. The court noted that Gerrish knowingly agreed to bail conditions authorizing searches without suspicion and did not challenge the reasonableness of these conditions. The court rejected Gerrish's argument that such bail conditions could not be imposed pre-trial or pre-guilty plea.

Fourth Amendment – Terry Stop
U.S. v. Camona
Decided June 3, 2024
https://www.ca1.uscourts.gov/sites/ca1/files/opnfiles/22-1947P-01A.pdf

Issue: Did the vehicle stop violate the Fourth Amendment?

Facts: An FBI Task Force and local agencies were investigating an unknown individual for the sale and distribution of fentanyl. The investigation consisted of a confidential informant purchasing over 400 grams of fentanyl by texting back and forth with a certain cell phone number that frequently changed. As part of that investigation, law enforcement obtained a cell phone ping warrant and, based on that location data, came to believe that the suspect resided at a particular location. As officers watched the home, knowing that the cell phone was currently in the residence, a taxi arrived. Shortly after that, a man exited the residence and entered the taxi. In an attempt to identify the man, a police officer stopped the taxi, falsely claiming that the driver had committed a traffic violation. As part of the stop, the officer identified the passenger who exited the residence as the defendant. The defendant moved to suppress the fruits of the traffic stop, arguing that it was

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unconstitutional because it was not supported by probable cause or reasonable suspicion. The District Court denied the motion, finding that the agents possessed reasonable suspicion of prior criminal activity based on the fentanyl sales and the related investigation.

Held: The Court of Appeals affirmed the District Court's decision. The Court found that the *Terry* stop was reasonable and grounded in articulable suspicion. The agents who stopped the defendant possessed a reasonable suspicion that he was involved in past criminal conduct. Considering the totality of the circumstances and giving due weight to the inferences drawn by the agents, the Court held that the agents who stopped the defendant possessed a reasonable, articulable suspicion that the defendant was the unidentified fentanyl seller. The defendant disagreed, arguing that there was no evidence that he was involved in any criminal activity when the vehicle was stopped. However, the appeals court found that case law was clear and that an officer's reasonable, articulable suspicion of a defendant's involvement in past criminal activity may justify a *Terry* stop.

Fourth Amendment – Staleness – Good Faith Exception
US v. Gonzalez
Decided August 26, 2024
https://www.ca1.uscourts.gov/sites/ca1/files/opnfiles/24-1070P-01A.pdf

Issue: Was the information supporting probable cause for a search warrant too stale and, if so, did the Good Faith Exception preclude suppression of evidence?

Facts: Defendant Gonzalez's residence was searched by the government for evidence of an illegal pill-making operation. Gonzalez moved to suppress the evidence found during the search, arguing that the search warrant was based on stale information and, therefore, lacked probable cause. The district court agreed, finding that the facts supporting the search warrant were too old and that the affidavit was so bare bones that no reasonable officer could have relied on it. The court noted that the operation's mastermind had moved out months earlier, there was little suspicious activity afterward, and the equipment was portable. The district court granted the defendant's motion to suppress the evidence. The court also determined that the Good Faith Exception to the Exclusionary Rule did not apply because the affidavit was too conclusory and lacked sufficient detail to justify reliance on the warrant.

Held: The First Circuit Court of Appeals bypassed the probable cause determination and focused on whether a reasonable officer could have relied on the warrant in good faith, which would result in the evidence being admissible. The Court found that a reasonable officer could have believed that the pill-making operation was still ongoing at the residence, given the long-standing nature of the operation, the continued ownership of the house by the mastermind, and the involvement of Gonzalez and his girlfriend. The Court vacated the district court's ruling on the motion to suppress and remanded the case to the lower court for further proceedings.

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Maine Supreme Judicial Court

Fourth Amendment – Curtilage – Vehicle Stop
State v. Ouellette
Decided April 18, 2024
https://www.courts.maine.gov/courts/sjc/lawcourt/2024/24me029re.pdf

Issue: Was there a reasonably objective basis for the vehicle stop, and was the stop an unreasonable seizure under the Fourth Amendment because it occurred within the curtilage of the defendant's home?

Facts: A police officer was patrolling Route 126 in Litchfield, looking for impaired drivers coming from a local restaurant that he had heard was overserving alcohol. As the officer was heading west toward the restaurant, he observed a vehicle driving east toward him. The car crossed over the center yellow double line and traveled partially in the officer's lane, enough so that the officer needed to move over in his lane to pass the vehicle safely. The officer then saw the car parked on the side of the road and saw it drive quickly across Route 126 onto an icy camp road. He saw the car turn into a driveway and saw the driver's side door open. The driver, Ouellette, got out. The officer pulled into the driveway behind Ouellette's vehicle, activated his cruiser's blue emergency lights, approached Ouellette in the driveway, and ultimately arrested Ouellette for OUI.

Ouellette claimed the vehicle stop was not supported by articulable suspicion of a violation of law. Ouellette did not raise the issue of the seizure occurring in his home's curtilage. The trial court denied Ouellette's motion to suppress, concluding that the stop was supported by reasonable articulable suspicion that Ouellette had violated the motor vehicle statute requiring vehicles to be operated as nearly as practical entirely within a single lane on a divided, two-lane public way. The court did not make findings relevant to whether the stop was within the home's curtilage because Ouellette did not raise the issue at that stage.

On appeal to the Law Court, Ouellette argued that the officer's seizure of him was unlawful because it occurred in his home's curtilage without a warrant or any exception to the warrant requirement. The State argued that Ouellette's claim was unpreserved, that the trial court's failure to grant Ouellette's motion on these grounds did not amount to obvious error, and that the court correctly concluded that the stop was supported by reasonable articulable suspicion.

Held: The Law Court concluded that it was not obvious error to deny Ouellette's motion to suppress based on a curtilage argument that was neither made nor developed. The Court agreed with the trial court that the vehicle stop was legal in that it was based on reasonable, articulable suspicion of a traffic infraction or safety concern.

Fourth Amendment – Emergency Aid Doctrine – Vehicle Stop
State v. Lovejoy
Decided May 23, 2024
https://www.courts.maine.gov/courts/sjc/lawcourt/2024/24me042.pdf

Issue: Did the vehicle stop and the subsequent warrantless entry into the defendant's home violate the Fourth Amendment?

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Facts: The defendant, Lovejoy, appealed from a judgment of conviction of murder. He argued that the court erred when it denied his motion to suppress evidence obtained from an allegedly unlawful traffic stop and a subsequent search of his home without a warrant or any exception to the warrant requirement.

Lovejoy and the victim were romantic partners and the parents of eight-year-old twins. On October 22, 2019, at around 6:45 p.m., a friend of the victim contacted the Waterville Police Department because she was concerned for the victim's well-being. Officers arrived at the family's home at 7:13 p.m. The officers did not observe anyone at the home and were unable to contact Lovejoy, the victim, or the victim's friend. At around 8:00 p.m., two other friends reported concern for the victim's safety. At 10:30 p.m., Officer Codey Fabian and Sergeant Jason Longley returned to the home and observed lights on inside the residence and the victim's car parked in the driveway. The officers knocked on the door. Lovejoy opened the door, and the officers stated their concern for the victim's safety. Lovejoy responded that the victim had left around 7:30 that morning to bring the children to the school bus stop, after which she came back to the residence, left to get coffee, and after returning home with the coffee, then left the residence on foot at 9:00 a.m. Lovejoy stated that he did not know where she had gone and had not returned. The officers asked if they could enter the home, but Lovejoy declined because the children were asleep inside. The officers and Lovejoy talked for about 45 minutes. At the end of the conversation, Lovejoy asked the officers whether he could leave the children asleep in the home while he went to look for the victim. The officers told him the children were not old enough to be left alone in the home.

Sergeant Longley instructed Officer Fabian to remain and surveil Lovejoy's home. Officer Fabian parked his police cruiser on the street around the corner from the home, where he could see the side of the home and the victim's car parked in the driveway. Using binoculars, Officer Fabian watched Lovejoy through a window as he appeared to mop the kitchen floor. At 11:37 p.m., Officer Fabian observed Lovejoy exit the home and walk his dog around the property for 12 minutes. At 12:30 a.m., Officer Fabian observed Lovejoy exit the home and enter the victim's car, driving it onto the street. At 12:31 a.m., after noting that one of the two rear license plate lights was out on the victim's car, Officer Fabian stopped Lovejoy about 10-20 yards from the home. Other officers arrived, including Sergeant Longley. Officer Fabian spoke to Lovejoy at the driver's window. Sergeant Longley, who had walked around to the opposite side of the car, observed a shotgun with a loaded magazine sitting on the front passenger seat. Lovejoy admitted that the gun was loaded and told the officers that he was on the way to the store and had the gun for self-defense. Lovejoy was arrested for having a loaded firearm in a motor vehicle and for endangering the welfare of a child. During the arrest, officers told Lovejoy that they would be entering his home to check on the safety of the children. The officers did not ask for consent to search the home, and Lovejoy did not give permission for a search.

Officers used a spare key, the location of which was provided by Lovejoy, to open the front door of Lovejoy's home. They entered the first floor of the residence and observed a piece of cardboard on the porch with stains that appeared to be blood, red or brown stains on the toe of a boot, red or brown stains on a roll of duct tape, a bottle of ammonia in the bathroom, and a mop in the kitchen sink. The officers also smelled an odor of cleaning solution, and the floors appeared to have been recently mopped. The officers were on the first floor for about two minutes and did not locate the children. The officers attempted to go up the stairs but encountered an aggressive dog. The dog

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was secured, and the officers located the children sleeping in their second-floor bedroom. About 30 minutes elapsed between the officers' entry into the home and their discovery of the children. Details of the murder were not admitted into evidence at the suppression hearing. However, the court noted at sentencing that Lovejoy learned that the victim was having an affair, that their relationship had since been abusive and involved constant threats of injury or death, including with guns, that Lovejoy had sexually abused the victim, that Lovejoy shot the victim four times and then cleaned up the scene, that Lovejoy staged fake text and Facebook messages pretending that the victim was still alive, and that Lovejoy had attempted to hide the victim's body in the basement of the home.

Held: The officer had reasonable, articulable suspicion to support the traffic stop when the officer observed the inoperable license plate light. Regarding the warrantless home entry, the Court concluded that the officers' warrantless entry into Lovejoy's home was justified by the unique exigent circumstances presented at the time, which included three friends of the victim voicing concern for her safety and well-being, Lovejoy giving the police an implausible explanation of the children's mother's absence, a history of domestic violence between Lovejoy and the victim, Lovejoy's history of possessing firearms, Lovejoy leaving home in the victim's vehicle late at night while the children were sleeping, Lovejoy having a loaded shotgun in the car, Lovejoy was under arrest, that it was unclear whether and when Lovejoy could meet bail conditions and be released, and that with Lovejoy unavailable, there were no adults in the home with the two sleeping eight-year-olds.

Fifth Amendment – Miranda Custody – Voluntariness
State v. Farley
Decided July 18, 2024
https://www.courts.maine.gov/courts/sjc/lawcourt/2024/24me052.pdf

Issue: Were the defendant's incriminating statements admissible without *Miranda* warnings, and were the statements voluntary?

Facts: The defendant, Farley, was convicted by a jury of gross sexual assault and unlawful sexual contact with an 11-year-old victim. He appealed, arguing that he was the subject of a custodial interrogation in which *Miranda* warnings should have been administered. He also claimed that his statements were not voluntary because of his anxiety and his hearing loss.

Held: The Court restated the basis for determining custody for purposes of Miranda as whether a reasonable person in the defendant's position would have felt free to terminate the interaction with law enforcement or if there was a restraint on freedom of movement of the degree associated with formal arrest. In making such a determination, the Court considers the totality of circumstances and several factors.[2] The Court decided that the trial court did not err in concluding that Farley

[2] Those factors include (1) the locale where the defendant made the statements; (2) the party who initiated the contact; (3) the existence or non-existence of probable cause to arrest (to the extent communicated to the defendant); (4) subjective views, beliefs, or intent that the police manifested to the defendant, to the extent they would affect how a reasonable person in the defendant's position would perceive his or her freedom to leave; (5) subjective views or beliefs that the defendant manifested to the police, to the extent the officer's response would affect how a reasonable person in the defendant's position would perceive his or her freedom to leave; (6) the focus of the investigation (as a reasonable person in the defendant's position would perceive it); (7) whether the suspect was questioned in familiar

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was not in custody. The trial court's factual findings were supported by competent evidence. The Court noted that although some factors could support a conclusion that Farley was in custody, only a single detective interviewed Farley; the interview occurred mid-afternoon, in an unmarked cruiser parked within yards of Farley's home; Farley was not physically restrained; Farley was told he could leave at any time and did not have to talk to the detective; Farley never asked to stop the interview; and the interview was conversational and under an hour long. As to the claim of involuntariness, the Court noted that a confession is voluntary if it results from the free choice of a rational mind, if it is not a product of coercive police conduct, and if, under all circumstances, its admission would be fundamentally fair. The Court agreed with the trial court's conclusion that there was no evidence to support Farley's contention that his alleged hearing deficiency resulted in him involuntarily making statements to the detective. The court found that Farley's statements were voluntary.[3]

Fourth Amendment – Probable Cause - Staleness
State v. Edwards
Decided August 1, 2024
https://www.courts.maine.gov/courts/sjc/lawcourt/2024/24me055_re.pdf

Issue: Was the information in the affidavit too stale to support a finding of probable cause for the issuance of a search warrant?

Facts: The defendant, Edwards, was charged with 18 counts of possession of sexually explicit material on computers in Edwards' possession. All charges were based on images found upon execution of a search warrant. Edwards moved to suppress all evidence found on the computers, arguing that there was no probable cause for the warrant because the information in the affidavit supporting the application for the warrant was stale. The trial court denied the motion to suppress, finding that the State Police Computer Crimes Unit received referrals from the National Center for Missing and Exploited Children (NCMEC) alleging that on three separate dates (January 28, January 30, and February 26), potential child exploitation material had been uploaded from an IP address associated with a property in Mercer, later identified to belong to Edwards. Based on these tips, a detective presented a request for a search warrant to the court on August 8 of the same year. It was executed the next day. The affidavit included the detective's opinion that consumers of child pornography often keep images or evidence of images for significant periods and that even if such images are deleted, there is often evidence on the computer demonstrating that a consumer accessed the images. The affidavit also outlined the investigation undertaken between receipt of the tips and the request for a warrant, including the investigation's findings concerning the physical location of the IP address, that Edwards resided at the house at that location, that Edwards had an interest in child pornography, and that he had previous convictions for possession of child pornography and other sexual misconduct charges.

surroundings; (8) the number of law enforcement officers present; (9) the degree of physical restraint placed upon the suspect; and (10) the duration and character of the interrogation.

[3] Specifically, the court found that there was only one interview, which was not custodial. Additionally, the court noted that the interview involved one detective; it took place in a neutral location and was relatively short, conversational, and civil. Further, the court noted that although the detective was persistent, he did not use trickery or threats, and nothing regarding Farley's age, health, emotional stability, or conduct suggested that the statements were involuntary.

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Held: The Court decided that the suppression court did not err in concluding that the information in the affidavit was not stale in determining that there was probable cause to issue the search warrant. Whether probable cause still exists when a warrant is requested is determined not by the mere passage of time but by the nature of the evidence and by considering the unique facts and circumstances of the case at hand. In cases involving sexually explicit material of minors, other courts have allowed years to pass without the information becoming stale. The Court noted that it has never set a limit on the maximum time allowed before information becomes stale. Instead, staleness is a fact-specific inquiry based on the circumstances of each case. Nothing affirmatively suggested that the information was stale in this case. Edwards's documented interest in child pornography, his previous conviction for possession of child pornography, and the multiple tips received regarding the same IP address, together with known characteristics of people who access electronic child pornography, all combined to provide probable cause to believe that the material would be there when the warrant was executed.

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