

For the International Municipal Lawyer's Association - IMLA's 5 things to know for March 15th

1. Here's a case where the battle between IT and the sheriff's department blew up. The sheriff needed a new system to manage the health care issues in the jail. The interaction between the sheriff, the new company and IT did not work as smoothly as planned. The IT director complained frequently about violations of the IT policies and ultimately was fired. Were his complaints protected by the First Amendment? No according to the Tenth Circuit.

<https://www.ca10.uscourts.gov/opinions/17/17-5058.pdf>

2. In Washington an intermediate appellate court has upheld a county ban on the retail sale of recreational marijuana against a preemption challenge.

<https://www.courts.wa.gov/opinions/pdf/D2%2047068-3-II%20Published%20Opinion.pdf>

3. In the Sixth Circuit, congratulations go to Zach Klein and his team in Columbus for a nice win in a case where officers were called to investigate both a claim by a homeowner that he just saw two youths wanted for an assault walk by and a call by a neighbor that the homeowner had threatened him and his son with a gun. The police arrived and events lead to their being confronted by the homeowner with a shotgun who they shot when he would not drop the weapon which was seen as a threat to the officers. In one respect the court described the homeowner's arguments as a "futile exercise in semantics".

<http://www.opn.ca6.uscourts.gov/opinions.pdf/18a0130n-06.pdf>

4. Out of the 9th Circuit comes another head scratcher that tests the meaning of excessive force. On Tuesday, that court concluded that during the course of an arrest, after the suspect has been subdued and is compliant, pointing a loaded gun at his head constitutes "excessive force." The suspect had yet to be cuffed but the court took issue with the fact that another officer was also armed and could have taken action had it been necessary. On the positive side, by 2 to 1, the court concluded that the officers were entitled to immunity.

<http://cdn.ca9.uscourts.gov/datastore/opinions/2018/03/13/16-35301.pdf>

5. In a jail case, the 9th Circuit continued to follow its rule of presumption that a jail holding a person under civil commitment waiting transfer has violated that person's rights if the person is held under conditions similar to a criminal pre-trial detainee or held under conditions different from conditions that the person would be held once transferred. The panel in remanding did suggest that the lower court might consider evidence rebutting these presumptions based on jail administration issues. Isn't it better to be a local government attorney than a jail administrator?

<http://cdn.ca9.uscourts.gov/datastore/opinions/2018/03/12/14-55320.pdf>

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