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FEATURE:

Tenth Circuit Denies Qualified Immunity to Detectives who Sought Overbroad Warrants Related to Defendant's Devices and Data

Armendariz v. City of Colorado Springs, No. 24-1201 (10th Cir. February 24, 2026)

In July 2021, approximately 50 people participated in a housing-rights march in Colorado Springs, which coincided with the city's 150th-anniversary parade. Colorado Springs Police Department (CSPD) had a fraught relationship with the local activist community, namely the Chinook Center, after an officer shot a young black man a few years prior. CSPD escalated its tactics by having one of its officers pose as an activist to infiltrate the Chinook Center and gather information on its members.

As the protesters marched, the plaintiffs, who are Jacqueline Armendariz and the Chinook Center, alleged that officers made many threatening remarks against the protesters, including that CSPD should "get on that bullhorn" and tell parade attendees to "stone 'em all to death" if they wanted "these motherfuckers to quit interrupting" the parade. Another officer responded, "Call us when we need to collect the bodies."

The police eventually moved in to arrest protesters. As they did, Armendariz allegedly threw her bike at an officer who was running down another protester, forcing him to jump out of the way. Later, Detective Summey sought three warrants against Armendariz and the Chinook Center. The first to search Armendariz's apartment for items including "digital media storage devices" such as phones, computers, tablets, thumb drives, and external hard drives associated with her. A second warrant was obtained to obtain the data on Armendariz's seized devices. The second warrant authorized a keyword and file search on Armendariz's devices for terms including police-related words, protest terms, "yt," Chinook founders' names, and variants, with no temporal limitation for keyword responsiveness. A third warrant by Detective Steckler sought a warrant to Facebook for subscriber info and seven days of "all" posts, "all" Messenger chats, and "all" Events from 07/27/21 to 08/02/21 tied to the Chinook Center's profile. The warrants were approved by their supervisors and issued by state judges.

The plaintiffs brought a variety of claims against the detectives, the city, and even the FBI, but the bulk of the case focuses on the 4th Amendment claims surrounding the three warrants and that is what the focus of my analysis will be.

Legal Question(s):

1. Whether the warrants related to the seizure of Armendariz's devices and data were overbroad.
2. Whether the detectives were entitled to qualified immunity if the warrants are, in fact, overbroad.
3. Whether the Facebook warrant for the Chinook Center was overbroad.

Holdings:

The court reversed the district court's decision and held that all three warrants were overbroad and that the detectives were not entitled to qualified immunity for their illegal execution.

Analysis:

Warrant #1

As stated above, the first warrant allowed CSPD to search Armendariz's home and seize "digital media storage devices, to include phones, computers, tablets, thumb drives, and external hard drives found to be associated with Jacqueline Armendariz." This warrant was challenged by Armendariz on the basis that the warrant did not state why any of her devices would contain information related to the bike incident. The court employed the nexus test to determine if the warrants were overbroad which has several factors: (1) the type of crime at issue, (2) the extent of a suspect's opportunity for concealment, (3) the nature of the evidence sought, and (4) all reasonable inferences as to where a criminal would likely keep such evidence.

The court found that an officer could not reasonably believe there was a connection between the devices seized and the actual bike incident that occurred away from Armendariz's home. The affidavit relied solely on Detective Summey's "training and experience" about "people who engage in illegal protest activity" to establish a nexus between the electronic devices and the assault under investigation, which had been repeatedly found to be inadequate to obtain a search warrant for someone's home in the 10th Circuit. It also found that the detective had an entirely speculative view about how Armendariz used her devices and an antiquated view of how devices are used in general.

Finally, it addressed qualified immunity and whether the officer had violated clearly established law in drafting and executing these warrants. It noted that while great deference is given to a warrant approved by a magistrate or judge, there are 4 narrow exceptions that could give rise to the denial of qualified immunity: (1) "the magistrate or judge in issuing a warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth," (2) "the issuing magistrate wholly abandoned his judicial role," (3) the warrant was "based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable," or (4) the warrant was "so facially deficient—i.e., in failing to particularize the place to be searched or the things to be seized—that the executing officers [could not] reasonably presume it to be valid." United States v. Leon, 468 U.S. 897, 923 (1984). It is somewhat unclear what the court actually did here. On page 3 of the opinion the court indicated that it upheld qualified immunity for the officers as it relates to this warrant. However, based on the analysis the court appeared to come to the conclusion that the 4th exception applied here and denied qualified immunity. If you just read the Justia summary (and I wouldn't blame you, this

opinion is 90 pages long), it says that the court upheld qualified immunity for this warrant. Here is a direct quote from the court talking about the first warrant from page 32 of the opinion: “We therefore reverse the district court’s ruling that qualified immunity protects Detective Summey and Sergeant Ditzler from liability for this search warrant.” This same ruling appears to be reflected in the conclusion paragraph at the end of the opinion as well, so it is unclear whether the court upheld qualified immunity for the officers as it relates to this first warrant.

Warrant #2

As stated previously, the second warrant allowed the detectives to seize the digital data kept on Armendariz’s devices. This was challenged on two fronts by Armendariz, the keyword searches done by the detectives and the file search of her devices. As to the keyword search, Armendariz argued that the terms to conduct the search were overbroad in violation of the 4th Amendment. The court agreed, reasoning that the keywords to be searched had essentially nothing to do with the crime that she was actually accused of. In fact, it was so broad that the court believed the warrant authorized officers to collect data unrelated to any crime. The warrant also failed to establish any temporal limit to the information being seized, which also contributed to its overbreadth.

The file search was also deemed overbroad. It sought location data from a 2-month period around the alleged incident, but did not explain why probable cause existed to seize any location data beyond the date and time of the incident. The same logic by the court was applied to her photos, videos, messages, and emails.

The court also held that the detectives were not entitled to qualified immunity for the second warrant, largely for the same reasons as the first warrant.

Warrant #3

The third warrant was a Facebook warrant directed at the Chinook Center, which allowed the detectives to seize certain kinds of data from the Chinook Center’s Facebook page, including its posts, direct messages, all subscriber information (including the names, addresses, and phone numbers of its members), and events. While the court held that the search for subscriber information may have been permitted under the 4th Amendment, the remainder of the information sought by the warrant was overbroad. The court used the direct messages as an example of this overbreadth, highlighting that the warrant allowed the officers to search every direct message the Chinook Facebook account had for the period of one week surrounding the incident, which included messages between the account and other users that did not have anything to do with the crime Armendariz was accused of. It also highlighted that similar cases have had warrants particularized to messages sent to or from the persons suspected of committing the crime, as in *United States v. Ulbricht*, 858 F.3d 71, 104 (2d Cir. 2017). The court once again adopted the same reasoning it employed to deny qualified immunity in the first two warrants, applying it to this warrant as well. It also remanded the case to determine whether the plaintiffs plausibly alleged municipal liability, thereby creating an even greater local government interest. This will be one to watch going forward.

Armendariz v. City of Colorado Springs

SHORT SUMMARIES:

6th Circuit – Police Shooting – 4th Amendment Seizure

Two Cleveland police officers, Jennifer Kilnapp and Bailey Gannon, responded to a July 20, 2020, report of an armed man, Darryl Borden, in a dark boarding house. Gannon opened a bathroom door upstairs, retreated toward the stairs, yelled "Get back," and gunfire followed. The parties agree that Gannon intentionally fired the first of two shots toward the perceived threat, and that the first round struck Kilnapp as she retreated behind him, causing significant injuries. Gannon later admitted he could not see Borden when he opened fire and could not recall his precise firing position. The district court denied qualified immunity at the summary judgment stage, and Gannon appealed.

The core issue was whether an officer "seizes" a person under the Fourth Amendment when the officer intentionally fires with an objective intent to restrain, but the bullet hits someone other than the specific target. The court found that a seizure by control requires submission or termination of movement and actual control, which are not required for a seizure by force. For seizure by force, the question is whether force was used with an intent to restrain, assessed objectively rather than by subjective motivation. The court held that when an officer intentionally fires a gun in circumstances that objectively manifest an intent to restrain, anyone struck is seized, regardless of whether they were the officer's specific intended target. A finding that the dissent noted created a distinct circuit split.

Kilnapp v. City of Cleveland

8th Circuit – Excessive Force

Des Moines officers executed an arrest warrant for Tyrone Cameron for First-Degree Murder, with officers surrounding the house and a K-9 present. Officer Meunsaveng saw Cameron on the roof. Cameron jumped and attempted to run, and Meunsaveng released K-9 Bero without warning to bite and hold. Bero reached Cameron within about five seconds, held him about fifteen seconds until handcuffed, and was then removed using a break stick within roughly two seconds.

Cameron brought § 1983 excessive force claims and related Iowa tort claims, and the district court granted summary judgment to all defendants. On de novo review, the court held that Cameron raised a triable issue that failing to warn before releasing Bero violated clearly established law such as *Kuha v. City of Minnetonka*, 365 F.3d 590 (8th Cir. 2003), and rejected defendants' safety-risk justification as a matter for the jury. In *Kuha*, it was established that warning prior to using a police dog was critical as to whether the use of the dog was excessive and that only a personal safety risk to the officer would overcome a lack of a warning *Adams v. City of Cedar Rapids*, 74 F.4th 935, 940 (8th Cir. 2023).

However, the court found no clearly established violation in using Bero to hold Cameron until handcuffed, deeming the fifteen-second bite reasonable under the totality of circumstances, including the violent charge, flight, perceived danger, and comparable duration approved in. The court held no clearly established right barred the physical removal technique using a collar pull and break stick, so qualified immunity applied to that claim. Failure-to-intervene claims failed because a post-release warning would not have prevented the alleged failure-to-warn harm, and holding Cameron until handcuffed did not violate a clearly established right. The failure-to-train claim against Chief Wingert failed for lack of notice of a pattern of similar unconstitutional acts. The failure-to-train claim against the City failed because Cameron did not show deliberate and conscious choices

causing the warning deficiency, and no other clearly established right was violated. The court reversed summary judgment only on the failure-to-warn excessive force claim against Meunsaveng, affirmed in all other respects on § 1983 claims, and remanded the Iowa tort claims for reconsideration.

Cameron v. City of Des Moines