

Case Summaries: Fourth Circuit Court of Appeals (Feb. 19, 21, & 26, 2025)

Misrepresentations and material omissions in search warrant application and government responses to motions to suppress rendered guilty plea involuntary

[U.S. v. Garrett](#), 128 F.4th 583 (Feb. 19, 2025). State law enforcement officials suspected that a man named “McDuffie” was dealing controlled substances. They surveilled his home and arranged a controlled purchase from the suspect through a confidential informant. The man law enforcement believed to be McDuffie left his residence and completed a sale of methamphetamine at a local fast-food restaurant. Following the controlled buy, law enforcement obtained a wiretap on the phone number which they believed belonged to McDuffie. Law enforcement next arranged for another controlled purchase using a different informant. This time, the man thought to be McDuffie was unable to personally deliver the drugs but arranged for his cousin to conduct the transaction. After the second buy, law enforcement obtained a wiretap on the cousin’s phone. The second informant also conducted an additional controlled purchase from the man thought to be McDuffie. Each of the three transactions were fully recorded by law enforcement and the informant. Within a few days of the third purchase, law enforcement conducted a traffic stop on a car with the man suspected of being McDuffie and his cousin inside. After smelling suspected marijuana during the stop, police searched the car, discovering a significant amount of meth. Law enforcement discovered during the traffic stop that the man they believed to be McDuffie was a different person, the defendant. Following the arrest of the two men, law enforcement applied for a search warrant to look for drugs at the defendant’s house. Despite knowing at this point that the defendant was not McDuffie, the warrant application referred to McDuffie as the person arrested during the traffic stop and as the person involved in the controlled buys. The warrant did not clearly reference the participation of two different confidential informants, instead referring only to “the confidential source.”

The defendant and his cousin were charged in the Eastern District of North Carolina with various drug and gun offenses. Both men moved to suppress. The defendant specifically argued that law enforcement’s failure to explain the mistaken identification was a fatal omission from the warrant application. In its response to the motion to suppress, the government again referred only to “the” informant in its briefing. After the motions were briefed, the government provided an additional 775 pages of discovery to the defendants. The co-defendant’s motion to suppress was denied. In response, the defendant withdrew his motion to suppress, fearing that the court would consider his litigation of the motion as a failure to accept responsibility for his crime. The defendant accepted a plea bargain to three of the charges and was sentenced to 240 months.

Following the defendant’s sentencing, the co-defendant cousin moved for reconsideration of his motion to suppress based on new evidence found in the 775-page disclosure. Specifically, he noted that he learned of the existence of the two informants for the first time in this late disclosure (and only by carefully scrutinizing handwritten notations in the margins of only a few of the pages). This same misapprehension was apparently shared by the district court. The district court granted the motion for

reconsideration, at which point the government dismissed all charges against the cousin with prejudice. The defendant then appealed, arguing that his guilty plea was not voluntary, pointing to the same newly discovered evidence and arguing that he would not have pled guilty if he had been aware of it.

A guilty plea may be set aside on appeal “only where the defendant was not informed of the direct consequences of his plea, or his plea was elicited by improper conduct.” *Garrett* Slip op. at 10. To support a claim that the guilty plea was induced by improper conduct on the part of the government, the defendant must show that the improper conduct occurred before his plea or affected his decision to plead guilty. *Id.* Here, the defendant contended that both the police and the prosecutors committed misconduct by failing to provide a full picture of the evidence against him.

A divided panel of the Fourth Circuit agreed. According to the majority, misconduct infected the entire investigative and prosecutorial process. The affidavit in support of the search warrant wholly failed to distinguish between the two informants. One of those informants was a first-time informant and was being paid by law enforcement. The other informant was the person who originally misidentified the defendant as McDuffie. This informant never notified the police of that mistake, even after seeing the defendant’s picture, talking with him on the phone, and meeting him face-to-face during the first controlled buy. “An accurate portrayal of the CIs would have established that nobody identified Garret and would have rightfully called their credibility into question.” *Id.* at 14. Even after police discovered the mistake about the defendant’s identity, they failed to disclose it in the search warrant application. Instead, the police affirmatively represented to the magistrate that the defendant had been identified as McDuffie and stated that they had arrested McDuffie during the traffic stop. “[T]he warrant here was secured based on the affiant’s knowing misrepresentation about a confidential informant’s involvement in the case.” *Id.* at 15. The intentional misrepresentations and omissions in the warrant meant that the defendant pleaded guilty without a full picture of the weaknesses in the government’s evidence. This amounted to police misconduct going to the heart of the case and rendered the defendant’s plea involuntary.

Alternatively, the defendant argued that the prosecution’s failure to disclose these defects before the defendant’s guilty plea constituted a due process violation under *Brady v. Maryland*, 397 U.S. 742 (1963). The court agreed. “Indeed, this case presents a rare and extraordinary situation where the prosecution’s actions during the pre-plea process evince a lack of candor that deprived Garret of due process.” *Garrett* Slip op. at 18. Even after the government was aware of the problems and omissions in the search warrant application, its brief in response to the defendant’s motion to suppress repeated those same mistakes. The court noted that these types of discovery lapses by the government were particularly troubling, given that “it is not a new or isolated incident from the United States Attorney’s Office in the Eastern District of North Carolina.” *Id.* at 28.

The defendant here withdrew his motion to suppress while suffering a misapprehension of the evidence against him. He argued on appeal that he would have litigated his suppression motion and would have proceeded to trial had the motion failed, given the newly discovered evidence. The court again agreed that the defendant met his burden to show that he would not have entered the plea but for the government’s misconduct. The court therefore vacated the defendant’s plea and sentence and remanded the matter for additional proceedings.

Judge Quattlebaum dissented and would have affirmed the district court’s judgment.

New substantive constitutional rule on true threats entitled the petitioner to file a successive habeas petition

[In Re: Rendelman](#), 129 F.4th 248 (Feb. 21, 2025). While serving a state prison sentence, the petitioner mailed threatening letters to people connected to his prosecution. This led to a federal prosecution and prison sentence, where he sent more threatening letters to public officials and judges, resulting in additional convictions. The petitioner completed his sentences in 2001. In 2005, Maryland officials picked him up on an old arrest warrant for threatening a state judge. While in custody for this offense, he sent more threatening letters to a state judge, a state prosecutor, the United States President, and to White House staff. This led to another federal prosecution for mailing threatening communications in the District of Maryland. The petitioner represented himself at trial, arguing that his letters were not “true threats,” but were rather statements of protest about the conditions of his incarceration. The district court instructed the jury that it could convict the petitioner if they determined that a reasonable person would deem the letters to be threatening, but did not include an instruction on any *mens rea* requirement. The petitioner was convicted of all counts and sentenced to 15 years imprisonment, followed by three years of supervised release. The convictions were affirmed on direct appeal. The petitioner unsuccessfully sought habeas relief.

A 2023 U.S. Supreme Court case clarified that, in “true threats” prosecutions, the government must show that the threatening statement at issue was objectively threatening and “that the defendant had some understanding of his statements’ threatening character.” *Counterman v. Colorado*, 600 U.S. 66, 73 (2023). “At a minimum, [the government] must prove a *mens rea* of recklessness, meaning the defendant ‘consciously disregarded a substantial risk that his communications would be viewed as threatening violence.’” *Id.* at 69. In light of the holding in *Counterman*, the defendant sought permission from the Fourth Circuit pro se to file a successive habeas petition in order to have his most recent federal convictions vacated.

The Fourth Circuit found that *Counterman* announced a new substantive rule of constitutional criminal law. New substantive rules apply retroactively to cases on collateral review. *Edwards v. Vannoy*, 593 U.S. 255, 276 (2021). This path to relief from his convictions was not available to the petitioner at the time of his initial habeas proceedings in 2015. Thus, the petitioner met the standard for a successive habeas motion under 28 U.S.C. 2255(h).

On the merits, the government argued that the error in the jury instructions at the petitioner’s trial did not have a substantial effect on the verdict, and the evidence at trial would have at least supported a finding that the petitioner acted recklessly in sending the threatening communications. The petitioner responded that the merits determination of that issue was for the district court to analyze in the first place. The court agreed with the petitioner, granting his request to file a subsequent habeas petition in the district court.

Denial of summary judgment improper where the district court failed to properly analyze qualified immunity issue

[Belton v. Loveridge](#), 129 F.4th 271 (Feb. 26, 2025). While executing a search warrant on a potentially dangerous suspect’s home in Charlotte, North Carolina, a woman inside the home pointed a gun at the officers as they entered. Several task force members fired at the woman. One task force member, Henrick, accidentally shot another task force member, Belton, in the arm once, wounding him. Charlotte-

Mecklenburg police officer Loveridge then apparently mistook Belton for the target suspect and quickly fired 10 shots at him, hitting him several times in the arms. Belton was seriously injured by the shots, to the degree that he could no longer work as a law enforcement officer. An investigation into the incident by the State Bureau of Investigation did not result in criminal charges for Loveridge, but an internal affairs investigation by the Charlotte-Mecklenburg Police Department found that she violated department policy on excessive force. They recommended that she be fired as a result. Belton sued Loveridge and the City of Charlotte, alleging excessive force, negligence, and other state tort claims. The defendant claimed that she acted lawfully and, alternatively, that she was entitled to qualified immunity. The district court denied her motion for summary judgment, finding that genuine issues of disputed material fact existed as to liability and that this precluded an award of qualified immunity. The defendant appealed, and a unanimous panel of the Fourth Circuit reversed.

An officer is entitled to qualified immunity unless he or she violates a statutory or constitutional right which was clearly established at the time of the conduct. *District of Columbia v. Wesby*, 583 U.S. 48, 62-63 (2018). If the defendant here reasonably believed that the use of deadly force was necessary under the circumstances to protect against the threat of serious injury or death to herself or others, no constitutional violation occurred. *Elliot v. Leavitt*, 99 F.3d 640, 642 (4th Cir. 1996). In other words, even if the officer accidentally shoots the wrong person, no Fourth Amendment excessive force violation occurs if the decision to deploy deadly force was reasonable. Here, the district court erred by failing to identify the constitutional right allegedly violated by the plaintiff and by failing to determine whether that right was clearly established. The question of immunity is distinct from the question of factual liability, and factual disputes about potential liability do not necessarily defeat a claim of qualified immunity. On remand, the district court must determine whether the plaintiff's use of force was reasonable as a matter of law, and whether the right to be free from the use of deadly force on these facts was clearly established at the time of the shooting.

The district court's judgment was therefore vacated, and the matter was remanded for the district court to properly analyze the qualified immunity question. The district court's ruling on the plaintiff's entitlement to public official immunity also hinged on whether the defendant violated a clearly established right, and it too was vacated and remanded for additional proceedings.