RECENT FEDERAL CASES OF INTEREST TO CITIES

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Morgan v. Quarterman, 570 F.3d 663 (5th Cir. 2009)

- *Habeas corpus* action
- Claims 1st and 14th Amendment violations
- Wrote note in response to Motion to Dismiss
- Disciplinary action not a violation

DePree v. Saunders, 588 F.3d 282 (5th Cir. 2009)

- 1st Amendment Retaliation; Due Process
- Relieved of teaching duties but allowed to research
- Qualified immunity for President
- No clearly established constitutional right
- No adverse employment action

Morgan v. Plano Independent School District, 589 F.3d 740 (5th Cir. 2009)

- First Amendment Case
- "Jesus is the reason for the season" pencils and also candy canes
- PISD said distracted students…
- 2005 amended policy to allow distribution at limited times
- Time, place, and manner restriction allowed

U.S. v. Stevens, 2010 WL 1540082 (U.S. 2010)

- First Amendment case
- Animal cruelty depicted in videos still protected speech
- 1999 Federal Law ruled unconstitutional- too broad
- Government's "promise" to use it responsibly not enough

RTM Media, LLC v. City of Houston, 584 F.3d 220 (5th Cir. 2009)

- First Amendment Case
- Alleged disparate treatment of commercial and noncommercial speech
- Claimed regulation of signs was a due process violation
- Restriction is valid if seeks to implement a substantial governmental interest…
- Court held the city demonstrated its approach was carefully calculated

A.M. v. Cash, 585 F.3d 214 (5th Cir. 2009)

- First and Fourteenth Amendments
- Prohibiting the display of the Confederate flag on school grounds
- Can prohibit expression if shown that it will cause a substantial disruption or material interference with school activities
- Can meet burden by showing reasonable expectation

Hill v. Carroll County, Miss., 587 F.3d 230 (5th Cir. 2009)

- Section 1983 Claim
- Fight between two women
- Resisted arrest and died in the police car
- Officers were entitled to qualify immunity
- No evidence of drugs
- No reasonable jury could have found the deputies used excessive force

United States v. Rangel-Portillo, 586 F.3d 376 (5th Cir. 2009)

- Stopped for an immigration check
- Officer became suspicious for various reasons
- All three passengers were illegally in the US
- Motion to suppress the evidence claiming agents lacked reasonable suspicion to stop the vehicle
- Temporary detaining of vehicle requires reasonable suspicion

Manis v. Lawson, 585 F.3d 839 (5th Cir. 2009)

- Section 1983 Excessive Force Claim
- Found car idling at 3 am with plaintiff sleeping
- Manis began acting irrationally when awakened and reached underneath the front seat
- Was shot and killed, no weapon found
- Court found defendant's use of force was not excessive and they were entitled to qualified immunity

United States v. Scroggins, 599 F.3d 433 (5th Cir. 2010)

- Fourth Amendment Claim of unreasonable search and seizure
- Arrested fiancée outside of home but re-entered to retrieve clothing
- Defendant fled into bedroom and officers found weapons in plain view
- Issue was whether effective consent was given for search of the premises
- Court found there was after its analysis

United States v. Banuelos-Romero, 597 F.3d 763 (5th Cir. 2010)

- Fourth Amendment Claim of unreasonable search and seizure
- Officer noticed defendant's vehicle cross onto the shoulder and stopped vehicle
- Found objective basis for suspecting legal wrongdoing based on a number of observations, including hidden compartment

Lee v. Kansas City Southern Railway Co., 574 F.3d 253 (5th Cir. 2009)

- EEOC, FMLA and Title VII (racial discrimination)
- Former engineer terminated
- Court remanded Title VII after analysis of persons similarly situated to Plaintiff
- "acceptable comparator"

Gross v. FBL Financial Services, Inc., 557 U. S. 2343 (2009)

- ADEA
- "Motivating factor" not the standard
- Must show "but for" the Plaintiff's age the employer would not have taken the adverse employment action
- Mixed motive burden shifting not allowed
- BOP stays with Plaintiff

Sullivan v. Leor Energy, LLC, 600 F.3d 542 (5th Cir. 2010)

- Draft of an employment agreement which was never signed by the parties
- Statute of frauds

EEOC v. Chevron Phillips, 570 F.3d 606 (5th Cir. 2009)

- EEOC
- Reasonable accommodation requirement
- Chronic Fatigue Syndrome 13 year before
- Medical Questionnaire

Frame v. City of Arlington, 575 F.3d 432 (5th Cir. 2009)

- City of Arlington
- ADA requirements
- Statute of limitations issue
- Discovery rule does not apply
- Begins to run upon the completion of a noncompliant construction or alteration
- Not on injury

Collier v. Montgomery, 569 F.3d 214 (5th Cir. 2009)

- Routine traffic stop
- 4th, 5th and 8th amendment claims
- Tried to grab pen
- Resisting arrest
- Video was used at trial
- Qualified immunity for officers

Pasco v. Knoblauch, 566 F.3d 572 (5th Cir. 2009)

- 1983 claim
- High speed chase
- Qualified immunity issues
- 4th amendment balancing test
- Importance of the governmental interest to justify intrusion

Goodman v. Harris County, 571 F.3d 388 (5th Cir. 2009)

- 1983 action
- Shooting
- Nero the dog was being drowned
- Evaluated conduct of officer and found unreasonable force was used- not qualified immunity

Safford Unified School District v. Redding, 557 U.S. 2633 (2009)

- 8th grader searched by school officials
- 4th Amendment right to be free from unreasonable search and seizure
- Search must be "reasonably related to the objectives of the search and not excessively intrusive in light of age and sex of the student and nature of the infraction"
- Did not find school official liability this time

Peterson v. City of Fort Worth, 588 F.3d 838 (5th Cir. 2009)

- Section 1983 Claim for excessive force
- Peterson and wife decided to sleep in truck after leaving a club intoxicated
- Officers drug Peterson out of truck and gave him a hard knee strike to the thigh
- Found for the city because Peterson did not show a policy practice or custom of the city as the moving force
- Court found plaintiff did not have enough evidence to show the city had a custom of permitting its officers to engage in excessive force

Tamez v. Manthey, 589 F.3d 764 (5th Cir. 2009)

- Pretrial detainee needed to be medically cleared before put in the jail
- Died from cocaine bag bursting in his intestines
- Claimed delivered indifference to his serious medical needs
- No evidence to show that the officers were aware of any substantial risk to his help

Shepherd v. Dallas County, 591 F.3d 445 (5th Cir. 2009)

- Pretrial detainee suffered stroke and permanent disability from failure to administer proper medication
- Condition of confinement claim
- Jail's own pharmacist testified that half or more of the inmates did not receive their prescriptions
- Court found for plaintiff

Bustos v. Martini Club, Inc., 599 F.3d 458 (5th Cir. 2010)

- Section 1983 Claim against officers, city officials, and the city
- Claimed he was assaulted by several off-duty police officers at a bar
- Officers did not act "under color of state law" to impose liability under 1983
- Good discussion regarding "color of law"

Wilkins v. Gaddy, 130 S.Ct. 1175 (2010)

- Eighth Amendment Claim of cruel and unusual punishment
- Claims he was "maliciously and sadistically" assaulted
- Use of excessive force can still be cruel and unusual punishment even when there is not serious injury
- No "significant injury" threshold requirement

United States v. Menchaca-Castruita, 587 F.3d 283 (5th Cir. 2009)

- Fourth Amendment warrantless search
- Landlord went inside apartment and found bundles of marijuana under blankets
- Defendant fled in his truck, leaving his front door partially open
- Police officer smelled marijuana but did not have a visual on the drugs
- Did not obtain a warrant but found 700 pounds of marijuana, but no exigent circumstances justified failure to obtain warrant
- Officer must show reasonable belief that the delay will allow destruction or removal of evidence, or put someone in danger

United States v. Jackson, 596 F.3d 236 (5th Cir. 2010)

- Fourth Amendment Claim
- Officers entered Jackson's residence with a state and federal arrest warrant
- They observed him placing something under the couch and performed a sweep of the house to ensure nobody else was present
- Jackson filed a motion to suppress the evidence
- Inevitable discovery doctrine
- Meant to put the police in the same position as if no error had occurred

Michigan v. Fisher, 130 S.Ct. 546 (2009)

- Fourth Amendment Claim
- Warrantless entry into defendant's residence after observing a chaotic scene
- Officer pushed front door partially open and had a gun pointed at him
- Emergency aid exception

Montejo v. Louisiana, 557 U.S. 2079 (2009)

- Overrules 1986 Supreme Court Case
- Found the rule that evidence obtained through interrogation after right to counsel invoked was unworkable
- Montejo waived his sixth amendment right to counsel
- Key is what happens when defendant is approached for interrogation not at a preliminary hearing

Peacock v. United States, 597 F.3d 654 (5th Cir. 2010)

- Peacock sued the US under the FTCA alleging malpractice for a surgical procedure
- Government initially conceded doctor was a government employee but less than one week before trial claimed he was an independent contractor
- Government claimed it could not be liable for independent contractor's actions
- Court went through the analysis of what factors distinguish between the two

Thaler v. Haynes, 130 S.Ct. 1171 (2010)

- Brought a habeas challenge to conviction based on voir dire
- Two different judges presided at two different stages of voir dire
- Batson challenge was made
- Haynes claimed judge who did not witness the voir dire could not fairly rule on the Batson challenge
- Court disagreed and refused to follow this rule

Florida v. Powell, 130 S.Ct. 1195 (2010)

- Miranda warning case
- Plaintiff argued the warning given was constitutionally insufficient
- Requires that officers only "clearly inform" suspects of their legal rights
- Court said FBI was "exemplary"

Maryland v. Shatzer, 130 S.Ct. 1213 (2010)

- The issue is whether a detained criminal suspect who is asked to speak with a lawyer can ever be questioned again without a lawyer present
- Fourteen day rule
- No basis in the constitution for Miranda, but instead it is judicially created
- Court distinguishes between suspect being questioned and lawful imprisonment

Davis v. Tarrant County, 565 F.3d 214 (5th Cir. 2009)

- Judicial immunity case
- What type of function is it?
- If judicial act then judicial immunity
- Judge is not employee of the county but acts on behalf of the state of Texas

United States v. Santos, 589 F.3d 759 (5th Cir. 2009)

- Sixth Amendment Case
- Santos claims government violated his right to confront witnesses by failing to call the victim as a witness in trial
- Government used witness statements given to medical provider
- Court allowed statements as they were "reasonably pertinent" to treatment and not hearsay

Presley v. Georgia, 130 S.Ct.721 (2010)

- Sixth Amendment Case
- Trial court excluded defendant's uncle from voir dire
- Voir dire is to remain public with very limited exceptions
- Court obligated to take every reasonable measure to accommodate public attendance

Berghuis v. Smith, 130 S.Ct. 1382 (2010)

- Sixth Amendment Case
- Convicted of murder by all white jury
- Smith and 36 witnesses to the shooting were African American
- Panel from which jury was drawn had 3 African Americans in its 60-100 members
- Smith failed to meet his burden of proof

U.S. v. Sylvester, 582 F.3d 285 (5th Cir. 2009)

- Issue is whether government could use a defendant's statements made during plea negotiations when the defendant waived his rights to object
- Case of first impression in the fifth circuit
- Fifth circuit could not find a reason for not extending the use of these statements