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

2021 CASE LAW UPDATE

OCTOBER 2020 — OCTOBER 2021

Maine Criminal Justice Academy
Maine Chiefs of Police Association
Maine Office of the Attorney General

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This publication and the 2021 New Law Update constitute the training outline of the Maine Criminal Justice Academy for recertification training in law updates for the year 2021.

Preparers' Note

The preparers 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 Sitting as the Law Court as they relate to criminal procedure for the period October 2020 through October 2021. The document contains summaries of cases of general interest and relevance to Maine law enforcement officers. Accordingly, this document is not a listing of all decisions of the three appellate courts.

The summaries are those of the preparers and do not represent legal opinions of the Maine Office of the Attorney General or interpretations by the Maine Criminal Justice Academy or the Maine Chiefs of Police Association.

If a decision is of interest to the reader, the entire text of the decision 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 entire text of a decision be reviewed for a more comprehensive understanding and particularly before taking any enforcement or other action.

The preparers wish to recognize the support and assistance of Assistant Attorney General Donald W. Macomber of the Attorney General's Criminal Division, who reviewed this document, and who is always available to answer questions posed to him concerning criminal procedure and other constitutional issues.

Questions, suggestions, or other comments?

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UNITED STATES SUPREME COURT

Fourth Amendment - Seizure

Torrez v. Madrid, 141 S.Ct. 989

https://www.supremecourt.gov/opinions/20pdf/19-292_21p3.pdf

Question: Must physical force used to detain a suspect be successful to constitute a "seizure" under the Fourth Amendment?

Facts: Roxanne Torres was operating a vehicle under the influence and in the process of trying to get away, endangering the two officers pursuing her. In the process, one of the officers shot and injured her. Torres pleaded no contest to three crimes. She filed a section 1983 civil rights complaint in federal court against the two officers which she alleged excessive force. The district court concluded that the officers were entitled to qualified immunity. In the court's view, the officers had not seized Torres at the time of the shooting, and without a seizure, there could be no Fourth Amendment violation. The U.S. Court of Appeals for the Tenth Circuit affirmed, holding that a suspect's continued flight after being shot by police negates a Fourth Amendment excessive force claim because there is no seizure. Torres appealed to the U.S. Supreme Court.

Holding: The application of physical force to the body of a person with the intent to restrain is a Fourth Amendment seizure, even if the person does not submit and is not subdued. The officers "seized" the suspect at the instant that the bullets struck her, even though she temporarily eluded capture. Under the Court's precedents, common law arrests are considered seizures under the Fourth Amendment, and the application of force to the body of a person with the intent to restrain constitutes an arrest even if the arrestee escapes. The use of a device, here a gun, to effect the arrest, makes no difference in the outcome; it is still a seizure. There is no reason to draw an artificial line between grasping an arrestee with a hand and using some other means of applying physical force to effect an arrest. The key consideration is whether the conduct objectively manifests the intent to restrain; subjective perceptions are irrelevant. Additionally, the requirement of intent to restrain lasts only as long as the application of force. In this case, the officers' conduct manifested an intent to restrain Torres and was thus a seizure under the Fourth Amendment.

Fourth Amendment: Community Caretaking & the Home

Caniglia v. Strom, 141 S.Ct. 1596

https://www.supremecourt.gov/opinions/20pdf/20-157_8mjp.pdf

Question: Does the "community caretaking" exception to the Fourth Amendment's warrant requirement extend to the home?

Facts: Edward Caniglia and his wife Kim got into an intense argument, during which Caniglia displayed a gun and told Kim something to the effect of "shoot me now." Fearing for her husband's state of mind, Kim decided to vacate the premises for the night. The next morning, she asked an officer to accompany her to the house because she was worried that her husband might have committed suicide or otherwise harmed himself. Kim and several police officers went to the house, and while the encounter was non-confrontational, the ranking officer on the

scene determined that Caniglia was imminently dangerous to himself and others and asked him to go to the hospital for a psychiatric evaluation, to which Caniglia agreed. While Caniglia was at the hospital, the ranking officer seized two of Caniglia's guns, despite knowing that Caniglia did not consent to their seizure. Caniglia filed a section 1983 lawsuit alleging that the seizure of his firearms constituted a violation of his rights under the Second and Fourth Amendments. The District Court granted summary judgment to the officers, and Caniglia appealed. Although the U.S. Supreme Court has recognized "community caretaking" as an exception to the Fourth Amendment's warrant requirement in the context of a vehicle search, whether that concept applies in the context of a private home was a matter of first impression within the First Circuit. The First Circuit held that the doctrine applies in the context of a private home and affirmed the lower court's decision. Caniglia appealed to the U.S. Supreme Court.

Holding: Community caretaking duties of law enforcement officers do not justify warrantless searches and seizures in the home. The "community caretaking" exception to the Fourth Amendment's warrant requirement does not extend to the home. The lower court's conclusion that the "community caretaking" exception permitted the officers to seize the petitioner's guns relied on an extension of *Cady*[1], which held that a warrantless search of an impounded vehicle for an unsecured firearm did not violate the Fourth Amendment. The Court's jurisprudence makes clear that vehicle searches are different from home searches, the latter of which are subject to the highest level of protection the Constitution affords. The Court has repeatedly declined to expand the scope or number of exceptions to the warrant requirement to permit warrantless entry into the home, and it declined to do so here.

Fourth Amendment: Warrantless Home Entry in Hot Pursuit

Lange v. California, 141 S.Ct. 2011

https://www.supremecourt.gov/opinions/20pdf/20-18_cb7d.pdf

Question: Does the exigent circumstances exception to the Fourth Amendment's warrant requirement apply when police are pursuing a suspect whom they believe committed a misdemeanor?

Facts: A California Highway Patrol officer observed a parked car "playing music very loudly," and then the driver, Arthur Lange, honking the horn four or five times despite there being no other vehicles nearby. Finding this behavior unusual, the officer began following Lange, intending to conduct a traffic stop. After following Lange for several blocks, the officer activated his emergency lights, but Lange "failed to yield." He turned into a driveway and drove into a garage. The officer followed and interrupted the closing garage door. When asked whether Lange had noticed the officer, Lange replied that he had not. Based on evidence obtained from this interaction, Lange was charged with two vehicle code misdemeanors and an infraction. Lange moved to suppress the evidence obtained in the garage. At the suppression hearing, the prosecutor argued that Lange committed a misdemeanor when he failed to stop after the officer activated his emergency lights and that the officer had probable cause to arrest Lange for this misdemeanor offense. The prosecutor argued that exigent circumstances justified the

[1] *Cady v. Dombrowski*, 413 U.S. 433 (1973)

officer's warrantless entry into Lange's garage. The trial court denied Lange's motion to suppress, and the appellate division affirmed. In the meantime, Lange filed a civil suit, asking the court to overturn the suspension of his license, and the civil court granted the petition after determining Lange's arrest was unlawful. The court reasoned that the "hot pursuit" doctrine did not justify the warrantless entry because when the officer entered Lange's garage, all the officer knew was that Lange had been playing his music too loudly and had honked his horn unnecessarily, which are infractions, not felonies. Based on the inconsistent findings of the courts, Lange petitioned for transfer to the California Court of Appeal, which concluded that Lange's arrest was lawful and affirmed the judgment of conviction.

Holding: Pursuit of a fleeing misdemeanor suspect does not always or categorically qualify as an exigent circumstance justifying a warrantless entry into a home. The Fourth Amendment ordinarily requires a police officer to obtain a warrant to enter a home, but an officer may enter a home without a warrant under certain specific circumstances, including exigency. The Court has recognized exigent circumstances when an officer must act to prevent imminent injury, the destruction of evidence, or a felony suspect's escape. That a suspect is fleeing does not categorically create exigency. While the Court previously recognized that the "hot pursuit" of a felony suspect created exigency that justified warrantless entry into a home, that case did not address the hot pursuit of misdemeanor suspects.[2] Rather, the Court's Fourth Amendment precedents support a case-by-case assessment of the exigencies arising from a particular suspect's flight.

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[2] *U.S. v. Santana*, 427 U.S. 38 (1976)

U.S. Court of Appeals for the First Circuit

Fourteenth Amendment – Substantive Due Process – Doctrine of "State-created Danger"

Irish v. Fowler, et al., 463 F.Supp.3d 362

http://media.ca1.uscourts.gov/pdf.opinions/20-1208P-01A.pdf

Question: Did officers create a risk injurious to plaintiffs for which the officers should be held liable under the doctrine of "state-created danger?"

Facts: This section 1983 claim arose out of the attacks, murder, and rapes committed by Anthony Lord against Brittany Irish and those close to her after actions and inactions by Maine State Police detectives. Irish sought relief based on the doctrine of state-created substantive due process danger under which officers may be held liable for failing to protect plaintiffs from danger created or enhanced by affirmative acts of the officers. In this case, the appeals court agreed that Brittany Irish presented sufficient evidence for a jury to find that the voicemail message left by the Maine State Police detectives for Anthony Lord was an affirmative act by the detectives that enhanced the danger to Irish and the others. The issue was not that the detectives contacted Lord; it was the manner in which they made contact despite having been warned about Lord's threats of violence and their own acknowledgement that contacting him would increase the risks to Irish and her family. When state officials can make unhurried judgments, their deliberate indifference may shock the conscience, particularly where the state official performs multiple acts of indifference. Where a state actor must act in a matter of seconds or minutes, a higher level of culpability is required. To show deliberate indifference, the plaintiff must, at a bare minimum, demonstrate that the officers knew of the substantial risk of serious harm and disregarded that risk. The district court noted and the appeals court agreed that in this case the detectives had time to make an unhurried judgment and yet they acted with deliberate indifference, when they left the voice mail message for Lord without having the benefit of a criminal background check which would have shown a history of domestic violence and without taking into account the alleged kidnap and rape initially reported by Irish, the threats she reported, or the fear she articulated.

Holding: The First Circuit affirmed the district court's ruling that a jury could find that the officers violated plaintiff's substantative due process rights, but reversed the grant of summary judgment on qualified immunity grounds, holding that a reasonable jury could conclude that the facts could give rise to a constitutional violation under the state-created danger doctrine.[3]

[3] Although nine other federal circuit courts have recognized the viability of claims of "state-created danger," which holds that law enforcement may be liable for injuries or deaths that occur because of a danger that it created, the district court in this case reasoned in its grant of summary judgment based on qualified immunity that the existence of the state-created danger doctrine was not settled law in the First Circuit and, accordingly, not clearly established law of which a reasonable officer would be aware. However, the First Circuit Court expressly declared in its decision that it for the first time joins the nine other circuits in holding such a theory of substantive due process liability is viable citing earlier dicta of the U.S. Supreme Court that clearly established law may be established by controlling authority (the First Circuit) or a robust consensus of persuasive authority (other circuits).

Fourth Amendment – Consent – Curtilage

U.S. v. Mumme, 985 F.3d 25

http://media.ca1.uscourts.gov/pdf.opinions/19-1983P-01A.pdf

Question: Did the defendant voluntarily consent to the seizure of his electronic devices, and did the officers unlawfully intrude upon curtilage to obtain consent?

Facts: Agents from Homeland Security notified a Maine State Police detective that they had evidence indicating that Ryan Mumme had wired money to individuals suspected of producing child pornography. As a result, the detective and two HSI agents traveled to Mumme's home to interview him about these transactions. Mumme's home was located at the corner of a paved road and a dirt road. The officers parked along the side of the dirt road near a recreational vehicle that was parked on the lawn next to Mumme's house. Beyond where the RV was parked was the end of the dirt road and a grassy field. The detective walked on a path through bushes to the front door and knocked, but no one answered. Ryan Mumme drove past them on the dirt road and parked in the field about 20 yards beyond the house and the RV. The detective told Mumme why the officers were there and asked Mumme about his wire transfers. After Mumme refused to allow the officers to search his electronic devices, the detective told Mumme that Mumme could voluntarily turn over his electronic devices to the officers, or, the officers could seize Mumme's house and apply for a warrant to search it for the electronic devices. The detective told Mumme that under either option, the officers would have to apply for a separate warrant before they could search Mumme's electronic devices. When asked what seizing and securing the house would entail, the detective told Mumme that Mumme would be prevented from entering his house while the search warrant was being sought. Mumme then allowed the officers into the home to seize his computer and hard drive. Subsequently, a search warrant was executed for Mumme's electronic devices, which revealed images and videos of child pornography. The trial court denied Mumme's motion to suppress the evidence discovered on his electronic devices. On appeal, Mumme claimed that his consent to allow the officers to enter his home to seize his electronic devices was not voluntary and, moreover, the officers' intrusion onto the curtilage of his home to question him was unconstitutional and rendered his consent involuntary.

Holding: The appeals court held that Mumme's consent to enter his home and seize his electronic devices was voluntary. The fact that the detective told Mumme that he would apply for a search warrant did not invalidate Mumme's consent to enter his home and to seize his electronic devices. Second, the court held that the officers did not unlawfully enter onto the curtilage of Mumme's home in that the officers spoke with Mumme and obtained his consent in an area outside the curtilage of his home considered "open fields" where Fourth Amendment protection does not extend. The court said that even if the area was within the curtilage of Mumme's home, the officers had an "implied license" to approach Mumme and request an opportunity to speak with him, just as when officers approach a house in an attempt to conduct a "knock and talk."

Fourteenth Amendment – Due Process – Giglio Impairment

Roe v. Lynch, 997 F.3d 80

http://media.ca1.uscourts.gov/pdf.opinions/20-1702P-01A.pdf

Question: Did the prosecutor violate the officer's due process rights by failing to provide the officer with meaningful notice and opportunity to dispute allegations of misconduct that led to the town's termination of the officer's employment?

Facts: Roe was a veteran police officer who had worked in multiple departments over approximately 17 years. He applied for a patrol position with a department in Penobscot County. During a polygraph examination conducted as part of the hiring process, Roe disclosed incidents reflecting adversely on him and that he had not disclosed in his application. Despite the polygraph disclosures, Roe was hired. A new police chief reviewed Roe's polygraph report and contacted a prosecutor for guidance. The chief was concerned because the polygraph disclosures suggested *Brady/Giglio* issues. Roe denied that the incidents reflected adversely on him. The District Attorney decided to disclose to future defendants some of the prior incidents in cases where Roe would be expected to appear as a witness. Thereafter, the chief notified the DA of allegations of new misconduct by Roe. The DA determined that Roe was "Giglio-impaired" and that the DA's Office would not prosecute cases in which Roe would be expected to appear as a witness. Roe's employment was terminated by the town. Roe complained that he was denied any meaningful opportunity to respond to the DA regarding what he claimed to be false or unsubstantiated allegations. Roe sued the DA, alleging due process violations.

Holding: A police officer deemed *Giglio*-impaired by the District Attorney and terminated by his/her employing agency does not have a due process claim against the District Attorney. The officer does not have a protected liberty or property interest in a prosecutor's charging decisions, decisions regarding what materials are disclosed to criminal defendants during discovery, or decisions as to who to call to testify at trial. These decisions involve the prosecutor's discretionary judgment and independence, which are protected from interference. The appeals court stated that a public employee may under certain circumstances have a protected a property interest in continued employment, but Roe's assertion fails because the DA was not his employer and the DA did not make the decision to terminate his employment.

Fifth Amendment – Miranda – Public Safety Exception

U.S. v. Simpkins, 978 F.3d 1

http://media.ca1.uscourts.gov/pdf.opinions/19-1948P-01A.pdf

Question: Did police officer's question about an object he felt in the defendant's pocket during a frisk violate *Miranda*?

Facts: The Maine State Police established probable cause that the defendant, Rob Simpkins, was transporting controlled substances into the state. Officers conducted a high-risk traffic stop during which they ordered Simpkins out of the vehicle and handcuffed him. An officer patted him down for weapons during which the officer asked Simpkins if there was "anything on" him. The defendant stated that he had a pocketknife. The officer "noticed" something in the defendant's pocket during the pat-down, apparently by feel, and asked, "What's that?" The

defendant replied that it was "just a little bit of fentanyl." Soon thereafter, Simpkins was arrested and read his *Miranda* rights. Simpkins later raised several issues on appeal, including his objection to the government's use of his "fentanyl" statement because it was made in the context of custody and interrogation without prior advisement of *Miranda.*

Holding: The court concluded that the officer's question that elicited the defendant's "fentanyl" statement arose out of an objectively reasonable concern for his safety rather than a sly effort to obtain testimonial evidence. Like many general rules, the *Miranda* rule has exceptions. One of the most important is the public safety exception. Provided that the officer asks the question in relation to an "objectively reasonable need" to address an "immediate danger," the court will allow the unwarned questioning to occur. The officer posed the question in furtherance of a reasonable check for weapons. Furthermore, it followed closely on the heels of the defendant's admission that he possessed a weapon in the form of a pocketknife. Under the public safety exception, the trooper was not required to make a split-second decision about whether to subordinate his immediate safety concerns to the admissibility of any answers he might receive to his pat-down-related questions.

Fourth Amendment – Deadly Force Liability

Fagre v. Parks, 985 F.3d 16

http://media.ca1.uscourts.gov/pdf.opinions/20-1343P-01A.pdf

Question: Was the officer's use of deadly force objectively reasonable?

Facts: Officers were investigating a home intrusion in which a resident had been tied up and held at gunpoint for an extended period while the assailant ransacked the residence. Trooper Jeffrey Parks, in his cruiser on a narrow single lane roadway, saw a vehicle driving toward him. The vehicle was accelerating rapidly, and Trooper Parks, based on the engine noise, believed the driver had pushed the gas pedal to the floor. The road was too narrow for the vehicle to pass Trooper Parks' cruiser without hitting a snowbank. Trooper Parks concluded that the driver intended to ram his cruiser. Trooper Parks quickly climbed on top of a snowbank. From the snowbank, he could see directly into the vehicle. He said that he saw only the driver and that the passenger seat appeared to be empty. The vehicle continued to accelerate toward his cruiser. Trooper Parks said he believed his life was in imminent danger when he fired several shots into the vehicle as it passed within a couple of feet of him and collided head-on with his police cruiser. He said he aimed all of his shots at the driver, intending to stop the driver from using deadly force against him. The vehicle crashed into Trooper Parks cruiser, missing him by a few feet. The force of the impact pushed the cruiser about 50 feet down the road. Officers then approached the vehicle and found Amber Fagre slumped across the center console of the car with her head under the driver's arm. An autopsy revealed that a single bullet, stipulated to have been fired by Trooper Parks, had passed through her right shoulder and head, killing her. The parties agreed that the trajectory of the bullet made it extremely unlikely that Ms. Fagre had been sitting upright in the vehicle when she was shot. Plaintiff's civil complaint alleged use of excessive force against Ms. Fagre in violation of the Fourth and Fourteenth Amendments and state law and negligence and wrong death under state law.

Holding: The First Circuit affirmed the order of the district court, holding that summary judgment was warranted, and Trooper Parks was also entitled to qualified immunity in that his use of deadly force was objectively reasonable under the circumstances. The court noted that, based on the facts alleged and admitted by the plaintiff, no reasonable jury could conclude that Trooper Parks knew or should have known that Ms. Fagre was in the car when he fired into it. Further, no reasonable jury could conclude that it was unreasonable for Trooper Parks to believe that the driver posed an imminent threat. When Trooper Parks fired into the vehicle, the suspect was attempting to ram Trooper Parks and his cruiser at full speed.

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MAINE SUPREME JUDICIAL COURT

Voluntariness of Confession

State v. Williams, 2020 ME 128

https://www.courts.maine.gov/courts/sjc/lawcourt/2020/20me128re.pdf

Question: Were the defendant's incriminating statements voluntary under Maine constitutional law in light of inappropriate force used during the defendant's arrest and in light of the defendant's fatigue and weakness during his interrogation by detectives? [4]

Facts: John Williams was convicted of murdering Corporal Eugene Cole of the Somerset County Sheriff's Office. The subject of an extensive fugitive hunt, Williams was found a few days later in a remote cabin. While placing handcuffs on Williams, an officer punched Williams in the head "two or three times" when it appeared that he was refusing to move his right hand. A photo was taken showing an officer pulling Williams's head up by his hair while he was lying on his stomach. A tactical team arrived and walked Williams out of the woods. Williams remained naked and barefoot while waiting for the tactical team to arrive and for most of the ten-minute walk, but he was wrapped in a blanket before exiting the woods. Two State Police detectives who met Williams near the edge of the woods said they would like to speak with him, and Williams agreed. The detectives—who had not been involved in the arrest—took custody of Williams from the arresting officers and walked him to their cruiser. The detectives drove Williams to the Waterville Police Department. He was alert and responsive to the detective's questions about his physical condition, reporting that while he was not injured, he was cold and hungry, and his hands hurt. Williams was examined by emergency medical personnel and medically cleared. The detectives then interviewed Williams and gave him food, water, fruit punch, and clothing. Nine minutes after waiving his *Miranda* rights, Williams confessed to killing Corporal Cole. Later, 90 minutes into the interview, Williams described and participated in a reenactment of the shooting with the detectives and other officers. Williams later moved to suppress his confession and other statements to the detectives, including the reenactment of the shooting, arguing that they were not voluntarily given because he was fatigued, hungry, suffering from drug withdrawal, and fearful for his safety because he had been "beaten and pummeled" by officers during his arrest. The trial court granted the motion in part, suppressing only (1) statements made by Williams later in the interview, (2) Williams's participation in the reenactment of the shooting at the police station, and (3) the statements Williams made during that reenactment and afterward.

[4]Under Maine law, the state must prove voluntariness of a confession or an admission *beyond a reasonable doubt*. Most all other jurisdictions, federal and state, require proof of voluntariness by the much lesser standard of a preponderance of the evidence, and the threshold element of involuntariness is a showing of coercive police misconduct. In Maine, there need not be a showing of police misconduct, but evidence that one's incriminating statement was not the free choice of a rational mind and, thus, not a product of acting voluntarily, knowingly, and intelligently.

Holding: The inappropriate force used during the defendant's arrest did not render involuntary his later confession to detectives; there was no error in the trial court denying defendant's motion to suppress his confession and other statements made up until the 1:28:46 mark on video of police interrogation, at which point defendant repeatedly requested a nap; after the 1:28:47 mark on the video of the interrogation, defendant's fatigue and weakness reached a point where his statements were no longer voluntary.

Fourth & Fifth Amendments & Voluntariness

State v. Akers, 2020 ME 43

https://www.courts.maine.gov/courts/sjc/lawcourt/2021/21me043.pdf

Question: Was the search of the curtilage without a warrant authorized under the emergency aid doctrine and another exception to the search warrant requirement, and were the defendant's initial incriminating statements voluntary?

Facts: Akers called the sheriff's office and reported that he was missing items and suspected that his neighbor had stolen them. The next evening, police learned that Akers's neighbor was reported missing. Officers learned in speaking with family members that they had been unable to contact the missing man since the evening before and were worried because he had been depressed and suicidal. The man's daughter reported that her father and Akers had a longstanding feud related to their properties. The man and Akers shared a common driveway near the road, but the driveway eventually split off onto their respective properties. There was a sign reading "Private Driveway Please Do Not Enter" where the driveway split off toward Akers's property. After walking the missing man's property, officers walked along a footpath through brush to Akers's property and called out for Akers but received no response. The path led them to two structures—a red trailer and a white camper—close to one another and surrounded by piles of scrap metal and other materials. A red truck was parked in the driveway. An officer heard a noise coming from the camper but the noise stopped; he noticed that the camper was padlocked from the outside and had a tarp hanging over the door. He knocked on the door and no one responded, and he peered in through a window but could not see anything. Meanwhile, another officer inspected the red trailer and noticed that it was also padlocked from the outside; he looked inside but could not see anything. The first officer knew that Akers raised dogs, so he and the second officer walked down another footpath to look for the dogs, thinking that Akers might be with the dogs, and they continued to call out for Akers. They returned to the trailer and camper. Although the first officer thought that he heard a noise, similar to the noise he had heard before, coming from the camper, the second officer did not hear it. Five hours later, just after midnight, the two officers and a third officer walked to Akers's property along the footpath using flashlights to light the way, announcing their presence and calling out for Akers. The officers heard no response but saw that the red truck was still parked in the driveway. The first officer again heard a noise coming from the camper, but this time it was a loud "thud" that sounded like it was made by "something bigger than any small animal" and may have been caused by a person. The second officer also heard the noise. At this point, the officers did not know that the sound came from Akers, they had not located the missing man, and the door was still padlocked from the outside. Two of the officers were at the front of the camper where there was a large window with a hinged cover over the window. They lifted the cover and shined a flashlight to illuminate the interior of the camper. A

person in a sleeping bag inside the camper began to get up. The first officer recognized the man inside as Akers; he called Akers by name, identified himself, told Akers "I need to talk to you," and asked Akers to come outside. Akers said that he first needed to get dressed. Akers came outside and the first officer engaged him in conversation during which Akers made incriminating statements indicating the missing neighbor was no longer alive. Later that morning, a search warrant authorizing a search of Akers's residence, property, and vehicles was issued. The affidavit relied in part on statements Akers made to the officers. A search of Akers's property resulted in the discovery of the victim's body and a machete with traces of the victim's blood on it.

Holding: The trial court erred in not granting the motion to suppress physical evidence when officers went into the defendant's curtilage without a warrant and authority under any recognized exception to the warrant requirement, including the emergency aid doctrine. Moreover, the trial court should have granted the motion to suppress the defendant's initial statements to police because they were involuntary in that they stemmed from the Fourth Amendment violations. Defendant's murder conviction was vacated and the case was remanded to the trial court to consider inevitable discovery and attenuation of subsequent statements.

Voluntariness of Confessions

State v. Carrillo, 2021 ME 18

https://www.courts.maine.gov/courts/sjc/lawcourt/2021/21me018.pdf

Question: Were the defendant's incriminating statements voluntary in light of her low IQ and what she claimed was the use of coercive techniques?

Facts: On February 25, 2018, ten-year-old Marissa Kennedy died after enduring months of physical abuse by her mother, Sharon Carrillo and Carrillo's husband, Julio Carrillo. In December of 2019, a jury found Carrillo guilty of the depraved indifference murder of her daughter. In this appeal from her conviction and her sentence, Carrillo challenges, among other things, the court's denial of her motion to suppress statements she made to law enforcement. Marissa died as a result of heart failure associated with battered child syndrome after suffering months of physical abuse. On the day of Marissa's death, and again the next day, Carrillo confessed to police that she had participated in the abuse that caused her child's death. Carrillo later moved to suppress the statements that she had made to law enforcement officers on the ground that she did not make those statements voluntarily. The first interview with Carrillo lasted around two hours and was conducted in a room with the door closed but not locked. At the outset of the first interview, Carrillo was informed of her Miranda rights, acknowledged that she understood those rights, and then agreed to answer questions. Carrillo remained calm during the interview and did not appear confused. When asked to explain what had happened, she "described Julio bringing Marissa upstairs from the basement, after which Marissa started spitting up blood from her mouth." Carrillo made no inculpatory statements during the first interview and responded in the affirmative when asked whether she felt safe around her husband. The second interview with Carrillo lasted an hour. She was given a second Miranda warning and again agreed to talk to the detectives. During the first portion of this interview, the detectives told her that her husband had admitted to a series of beatings. Carrillo initially continued to deny any involvement in Marissa's death but soon described actions that she and her husband had taken,

implicating both of them in Marissa's death. Although many of Carrillo's responses during the second interview simply confirmed what detectives said, she was able to answer open-ended questions with additional detail. For example, Carrillo admitted that the beatings, which sometimes involved the use of a belt, had begun three months earlier. At one point during this interview, Carrillo gave the unsolicited response, "I feel terrible . . .I killed my own child." The next day, Carrillo and her husband agreed to be interviewed by the Maine State Police Major Crimes Unit at the barracks in Bangor. At the start of that interview, Carrillo was again provided with a Miranda warning and accurately described what she believed each section of the warning meant. In this interview, which lasted less than three hours, Carrillo again made incriminating statements about her role in the abuse of Marissa. On appeal, Carrillo argued that her confessions were involuntary because of the combination of her low IQ and coercive questioning techniques. However, the Law Court pointed out that a low IQ by itself is not dispositive in determining involuntariness and that the suppression court correctly found that, although, Carrillo had cognitive limitations, law enforcement used no coercive police tactics in questioning her—no trickery, threats, promises, or inducements. Although the detectives did ask leading questions and did exhort Carrillo to "tell the truth," the suppression court found that there had been no use of any objectionable practices.

Holding: The trial court did not err in denying defendant's motion to suppress the statements she made to investigators on the day of and the day after her daughter's death. Defendant's conviction of the depraved indifference murder of her daughter and her sentence of 48 years in prison were affirmed.

Fifth Amendment – Miranda Custody – Voluntariness
State v. Clark, 21 ME 12
https://www.courts.maine.gov/courts/sjc/lawcourt/2021/21me012.pdf

Question: Was the defendant in custody for purposes of *Miranda* when he made incriminating statements at his residence and were the statements voluntary, and did the claimed involuntary statements irreparably taint his later post-*Miranda* confession at the police station.

Facts: Philip Clark was convicted of murdering his sister-in-law, Renee Clark. He shot her several times, reloaded, and continued to shoot her until she stopped moving. Renee, at the time of her death, was in a contentious divorce proceeding with her husband and Philip's brother, Frank Clark. The defendant sought to suppress statements he made to the police at his residence, as well as the post-*Miranda* statements that he made at the police station later that day. In terms of whether the defendant was in custody for purposes of *Miranda* when he made incriminating statements at his residence, the trial court found that while there were a few circumstances present that could weigh in favor of custody, there were many factors that suggested that the defendant was not in custody, including that (1) he made the statements in a familiar location, i.e., the front steps of his residence; (2) the officers never made any indication that they had probable cause to arrest him, and they had no reason to know that they would ultimately obtain probable cause to arrest him; (3) there was no physical restraint; (4) it was the defendant, upon his own volition, who exited the building; and (5) the officers were nonconfrontational, compassionate, and polite with him when he admitted to shooting Renee. The court also found that the police presence was not without context. The officers

wanted to locate Renee, not having any reason to believe that she was dead, let alone that the defendant was responsible for her death. In terms of the voluntariness of the defendant's incriminating statements, courts consider the totality of the circumstances in making a voluntariness determination, including: the details of the interrogation; duration of the interrogation; location of the interrogation; whether the interrogation was custodial; the recitation of *Miranda* warnings; the number of officers involved; the persistence of the officers; police trickery; threats, promises or inducements made to the defendant; and the defendant's age, physical and mental health, emotional stability, and conduct. The trial court concluded beyond a reasonable doubt, based on the totality of the circumstances, that defendant's statements to the police were voluntary. The court found that although his physical health was diminished, there was no indication that his mental health was diminished. The court found that his initial non-custody statements and his confession to law enforcement at the police station were voluntary beyond a reasonable doubt, and that the State proved by a preponderance of the evidence that the defendant knowingly and intelligently waived his *Miranda* rights before confessing during interrogation at the police station. The defendant appealed the trial court's denial of his suppression motion.

Holding: The trial court was correct in concluding that the defendant was not in custody for purposes of *Miranda* when he confessed outside his residence. The trial court was also correct in determining beyond a reasonable doubt that the defendant's initial non-custody statements and his later post-*Miranda* confession were voluntary. Finally, the trial court was correct in its determination that the State proved by a preponderance of the evidence the defendant's knowing and intelligent waiver of his *Miranda* rights at the police station.

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