

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Kaminsky v. Schriro

Kaminsky · No. 18-403 · Decided January 24, 2019

SUMMARY

The Second Circuit affirmed the District of Connecticut’s grant of summary judgment for defendants in Joseph Kaminsky’s Fourth Amendment action. The court held that Kaminsky consented to officers’ entry into his home and to the surrender of his firearms, despite the officers’ mistaken belief that he was legally prohibited from possessing firearms. The court also held that officers who waited in the yard were entitled to qualified immunity on the curtilage claim.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Per curiam; Robert A. Katzmann, Chief Judge; Peter W. Hall, Circuit Judge; Gerard E. Lynch, Circuit Judge
JURISDICTION	Federal
DECIDED	January 24, 2019
DOCKET	18-403
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the District of Connecticut's judgment granting defendants summary judgment on his remaining Fourth Amendment claims.
STANDARD OF REVIEW	De novo review of summary judgment, construing the evidence and drawing reasonable inferences in favor of the nonmoving party.
PRECEDENTIAL VALUE	Nonprecedential summary order
PARTIES	Joseph W. Kaminsky, Jr. v. Dora B. Schriro, Barbara Mattson, Vincent Imbimbo, Walter Solenski, Brian Flanagan, Ted Opdenbrouw, Robert Dexter, Paolo D'Alessandro, Sean Musial, Mark A. Palmer, Michael Hicks

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QUESTIONS PRESENTED

1. Whether Kaminsky voluntarily consented to the officers' entry into his home.
2. Whether Kaminsky voluntarily consented to the surrender and seizure of his firearms despite the officers' mistaken belief that he was legally barred from possessing firearms.
3. Whether officers who waited in the backyard area violated the Fourth Amendment by entering the home's curtilage.
4. Whether the officers were entitled to qualified immunity on the curtilage claim.

HOLDINGS

1. Kaminsky voluntarily consented to the officers' entry into his home, including the entry of Mattson and Imbimbo, because he waved the officers in and his conduct at least impliedly consented to their entry.
2. The seizure of Kaminsky's firearms did not violate the Fourth Amendment because Kaminsky consented to surrendering them, and the officers' mistaken belief about his felony status did not render that consent coerced.
3. The court did not decide whether the officers' presence in the backyard area constituted a Fourth Amendment violation, because the officers were entitled to qualified immunity in any event.

KEY QUOTATIONS

"A warrantless consent search is reasonable and thus consistent with the Fourth Amendment irrespective of the availability of a warrant." (4)

"The consent must be a product of that individual's free and unconstrained choice, rather than a mere acquiescence in a show of authority." (5)

*"Under the totality of the circumstances, see *Schneckloth v. Bustamonte*, 412 U.S. 218, 227-28 (1973), no reasonable factfinder could conclude that Kaminsky's consent to the entry into his house and the seizure of his firearms was coerced."* (6)

"The doctrine of qualified immunity gives officials breathing room to make reasonable but mistaken judgments about open legal questions." (6)

FACTUAL BACKGROUND

An FBI agent informed Connecticut State Police Officer Barbara Mattson that Kaminsky had a felony conviction allegedly making him ineligible to possess firearms. After conducting independent research, officers went to Kaminsky's home, and Kaminsky invited them inside. He consulted with his attorney, surrendered his firearms and permit, and later surrendered additional firearms. Officers who remained outside did not enter the home or conduct searches, and Kaminsky later contended that the officers' premise about his felony status was erroneous and that their presence implicated the Fourth Amendment.

PROCEDURAL HISTORY

The district court dismissed the official-capacity claims against state defendants and several other claims, leaving allegations that officers unlawfully entered Kaminsky's home, waited on his property, and seized his firearms. The district court granted two motions for summary judgment resolving all remaining claims and defendants. The Second Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Castle Rock Entertainment, Inc. v. Carol Publishing Group, Inc., 150 F.3d 132, 137 (2d Cir. 1998)
- Sotomayor v. City of New York, 713 F.3d 163, 164 (2d Cir. 2013) (per curiam)
- Fernandez v. California, 571 U.S. 292, 298, 306-07 (2014)
- United States v. Iverson, 897 F.3d 450, 458 (2d Cir. 2018)
- Birchfield v. North Dakota, 136 S. Ct. 2160, 2185 (2016)
- United States v. Jelks, 273 F. Supp. 2d 280, 291 (W.D.N.Y. 2003), aff'd, 73 F. App'x 486 (2d Cir. 2003)
- Frazier v. Cupp, 394 U.S. 731, 739 (1969)
- Schneckloth v. Bustamonte, 412 U.S. 218, 227-28 (1973)
- Ziglar v. Abbasi, 137 S. Ct. 1843, 1866-67 (2017)
- Ashcroft v. al-Kidd, 563 U.S. 731, 735 (2011)
- City of Syracuse v. Onondaga County, 464 F.3d 297, 308 (2d Cir. 2006)
- United States v. Dunn, 480 U.S. 294, 301 (1987)
- Florida v. Jardines, 569 U.S. 1 (2013)
- United States v. Alexander, 888 F.3d 628 (2d Cir. 2018)
- Collins v. Virginia, 138 S. Ct. 1663 (2018)