

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

United States v. Anthony R. Buster

No. No. 21-4101, United States Court of Appeals for the Fourth Circuit (February 22, 2022)

SUMMARY

In *United States v. Buster*, the Fourth Circuit held that a warrantless search of a bag under the *Terry* protective-search doctrine is unconstitutional when the suspect is already handcuffed and face-down on the ground, with no access to the bag, because there is no realistic danger to officer safety. The court also ruled that a conditional guilty plea under Rule 11(a)(2) properly preserved both a Fourth Amendment suppression issue (case-dispositive) and a Fifth Amendment *Miranda* issue (inextricably intertwined), allowing appellate review. The conviction was reversed and remanded for further proceedings.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Toby Heytens; Roger Gregory; Julius Richardson
JURISDICTION	Federal
DECIDED	February 22, 2022
DOCKET	No. 21-4101
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the denial of a motion to suppress in a criminal case after conditional guilty plea
STANDARD OF REVIEW	De novo for legal conclusions, clear error for factual findings
PRECEDENTIAL VALUE	Published
PARTIES	Anthony R. Buster v. United States of America

TOPICS

- fourth amendment
- search and seizure
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- Criminal law
- Constitutional law

QUESTIONS PRESENTED

1. Whether the warrantless search of Buster's bag was constitutionally reasonable under the Terry protective search doctrine after Buster was handcuffed and no longer had access to the bag.
2. Whether the conditional guilty plea properly preserved the issues for appeal under *United States v. Bundy*.

HOLDINGS

1. The Terry protective search doctrine cannot be stretched to cover a warrantless search of a bag recently possessed by a person who was handcuffed and face-down on the ground at the time the bag was opened, because there is no realistic danger to officer safety.
2. The conditional plea was valid because the issues preserved were case-dispositive (suppression of essential evidence) and inextricably intertwined, and Bundy does not preclude consideration.

KEY QUOTATIONS

“We hold that the district court erred in denying Buster's motion to suppress the firearm because the sole theory the government has pressed in support of that result does not apply here.” (Pg: 9)

“We hold only—but importantly—that a doctrine authorizing a limited warrantless search to protect officer safety cannot be stretched to cover situations where there is no realistic danger to officer safety.” (Pg: 13)

FACTUAL BACKGROUND

At 11:18 p.m. on September 22, 2019, two officers approached Anthony Buster as he walked along Fairfield Avenue in Richmond, Virginia. The officers were responding to a report of a domestic assault where a firearm discharged. Buster matched the description of the assailant. When the officers tried to stop him, Buster ran, tripped, and fell. The officers tackled him, handcuffed him, and cut off the single-strap bag he was wearing. The bag felt hard to the touch, indicating a weapon. The officer opened the bag and found a gun and a box of ammunition. At the time the bag was opened, Buster was handcuffed and face-down on the ground, with no access to the bag.

PROCEDURAL HISTORY

The district court denied Buster's motion to suppress the firearm and statements. Buster entered a conditional guilty plea, preserving his right to appeal the suppression ruling. The district court accepted the plea and sentenced him to 51 months. The government argued that the appeal was not properly preserved under *United States v. Bundy*, 392 F.3d 641 (4th Cir. 2004). The Fourth Circuit held that the appeal was proper and reversed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The defendant must be given an opportunity to withdraw his guilty plea. The district court may need to address whether the suppression of the firearm affects the admissibility of the on-the-scene statement.

CASES CITED

- Terry v. Ohio, 392 U.S. 1 (1968)
- Minnesota v. Dickerson, 508 U.S. 366 (1993)
- United States v. Miles, 247 F.3d 1009 (9th Cir. 2001)
- United States v. Bundy, 392 F.3d 641 (4th Cir. 2004)
- Payne v. Taslimi, 998 F.3d 648 (4th Cir. 2021)
- United States v. Black, 707 F.3d 531 (4th Cir. 2013)
- United States v. McCoy, 513 F.3d 405 (4th Cir. 2008)
- United States v. Davis, 997 F.3d 191 (4th Cir. 2021)
- United States v. Walker, 615 F.3d 728 (6th Cir. 2010)
- Missouri v. Seibert, 542 U.S. 600 (2004)
- United States v. Mashburn, 406 F.3d 303 (4th Cir. 2005)
- New York v. Quarles, 467 U.S. 649 (1984)
- Hudson v. Michigan, 547 U.S. 586 (2006)
- Riley v. California, 573 U.S. 373 (2014)
- Mincey v. Arizona, 437 U.S. 385 (1978)
- United States v. Seay, 944 F.3d 220 (4th Cir. 2019)
- United States v. Leon, 468 U.S. 897 (1984)
- Davis v. United States, 564 U.S. 229 (2011)
- Adams v. Williams, 407 U.S. 143 (1972)
- Cohens v. Virginia, 19 U.S. 264 (1821)
- Illinois v. Lidster, 540 U.S. 419 (2004)