

*In the
Supreme Court of the United States*

No. _____

RONALD SMITH
PETITIONER,

v.

BEXAR COUNTY, RAMIRO SANCHEZ,
DEPUTY,
RESPONDENTS.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

Andres Roberto Cano
Supreme Court Bar # 325608
Texas Bar # 24100071
Petitioner's Counsel
1140 South Laredo
San Antonio, Texas 78204
(210) 231-0433 (office)
(210) 263-7667 (fax)
dx4829@gmail.com

QUESTIONS PRESENTED

Under the 4th Amendment, a warrantless emergency mental health detention constitutes a physical seizure. Police often misconstrue ordinary street encounters with citizens as “mental crises,” and wrongfully seize the public. Police also use the Community Caretaking Function as a font for insidious criminal investigations. There is no “universal” standard which delineates the circumstances and/or legal requirements for such seizures.

(1) Whether Courts and Police improperly conflate subjective personal traits with true “mental illness” in the context of street encounters resulting in unlawful Emergency Mental Health Detentions?

(2) Whether the Community Caretaking Function has become a bountiful panacea for unlawful detentions, illegal seizures, and insidious searches by law enforcement?

PARTIES TO THE PROCEEDINGS

Petitioner Ronald Smith was the Appellant below. Respondents Bexar County, Texas and Deputy Ramiro Sanchez were the Appellees below.

RELATED PROCEEDINGS

United States District Court (W.D. Tex.) *Smith v. Bexar County, et al.* No. 23-cv-623-JKP, August 16, 2024.

United States Court of Appeals Fifth Circuit No. 24-50724, June 5, 2025 (Unpublished).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Ronald Smith respectfully Petitions for a Writ of Certiorari to review the Judgment of the Fifth Circuit Court of Appeals in No. 24-50724.

OPINIONS BELOW

Oral Argument was heard in No. 24-50724 on June 3, 2025. The Fifth Circuit affirmed the Judgment of the District Court in an unpublished Opinion on June 5, 2025.

JURISDICTION

The Judgment of the Court of Appeals was entered on June 30, 2025. Rehearing was denied on June 23, 2025.

On August 15, 2025, Justice Samuel Alito extended the period of time to file Certiorari until October 21, 2025. This Court has jurisdiction under 28 U.S.C. 1254(1).

**I. CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

A. FOURTH AMENDMENT

The Fourth Amendment of our United States Constitution provides: “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.”

B. EMERGENCY MENTAL HEALTH DETENTIONS

The Fourth Amendment is implicated in “warrantless Emergency Mental Health Detentions.” These are ad hoc physical detentions and restraints by Police of citizens they claim have “mental crises.”

C. 42 U.S.C. §1983

Every person, who under color of statute, ordinance, or regulation, custom, or usage, of any State or Territory of the District of Columbia, subjects, or cause to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proceeding for redress...”

This is a product of the Civil Rights Act of 1871, enacted in the wake of Civil War Reconstruction. Individuals acting under the color of state law, can be liable. The 42 U.S.C. 1983 statute does not provide “rights” in itself. It serves as an enforcement vehicle for violations of the U.S. Constitution or federal laws, treaties, or statutes, *West v. Atkins*, 487 U.S. 42 (1988).

II. LEGAL DOCTRINES

A. COMMUNITY CARETAKING FUNCTION

This Court designated auxiliary functions of law enforcement which fulfill their duties to serve and protect the public as the “Community Caretaking Function.” The case was *Cady v. Dombrowski*, 413 U.S. 433 (1973). The foremost facet of this doctrine is “Community Caretaking” is devoid of traditional criminal investigations and pursuits. “Caretaking” purports to safeguard the public, rather than prosecute them.

For example, AMBER alerts notify the public of lost individuals. Also, Police perform Welfare Checks at the request of family or loved ones to check the status of individuals who are not heard from.

B. WARRANTLESS MENTAL HEALTH DETENTIONS

The D.C. Circuit was the first federal authority to analyze these citizen encounters with Police, *In Re Johnnie Barnard, Patient*, 455 F.2d 1370 (D.C. Cir. 1971). The D.C. Circuit held such warrantless mental health detentions constituted seizures under the Fourth Amendment. Further, that such seizures required “probable cause” to be valid.

However, there is no consensus on what criteria constitute genuine mental crises. Further, there is no consensus on what legal factors would constitute probable cause.

C. LAW ENFORCEMENT MALFEASANCE

One recurring problem is law enforcement improperly effect these warrantless seizures when no mental crisis is present. Police utilize the “Community Caretaking” function as a panacea for failed criminal investigations, or to conceal their own illegalities. This Court recently observed this tension in *Caniglia v. Strom*, 593 U.S. 194 (2021).

This Court has only fleetingly addressed the Civil Commitment Process before. In *Addington v. Texas*, 441 U.S. 418 (1979), this Court stated the quantum of proof necessary for involuntary mental health confinement was “clear and convincing evidence.”

In *O'Connor v. Donaldson*, 422 U.S. 563 (1975), this Court held a mental illness alone is insufficient for involuntary confinement. The patient must demonstrate violence, harm to themselves, or the inability to care for themselves to justify coercive State confinement.

III. STATEMENT OF THE CASE

It's well-settled the Community Caretaking Function must exist apart from criminal inquiry or investigations. See *Caniglia* at 198. There is no freestanding concept for law enforcement to forage for criminal evidence while “safeguarding the public.” In fact, *Cady* stood for the proposition the caretaking function was “*divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.*” *Cady* at 441.

The State of Texas has a similar iteration. In *Corbin v. State*, 85 S.W.3d 272 (Tex. Crim. 2002), the Texas Court of Criminal Appeals examined a scenario where an Officer initiated a pretextual traffic stop because he thought “the driver was sleepy.” The resulting encounter revealed illicit Cocaine. The Court was skeptical of the Officer’s intent. It delineated 4 factors to examine whether the Caretaking Function was proper. (1) The degree of the citizen’s distress. (2) The location of the

citizen. (3) Whether other help is available, aside from the Police. (4) What, if any, danger the citizen will be exposed to if they don't receive Police aid. The Court considered factor (1) to be the most relevant. The Court reversed the 30 year Judgment of conviction, as it felt it was unreasonable to believe Corbin was in distress.

Generally, most of the federal Circuits try to finagle the Caretaking Function into a myriad array of situations. Improperly, it would seem. However, sometimes it is apparent law enforcement has ulterior motives, and caretaking is a façade. In *United States v. Ramos*, 88 F.4th 862 (10th Cir. 2023), the 10th Circuit found it was unreasonable for Police to seize a vehicle on private property, with the intent to possess and search it. "Public safety" lies at the heart of Caretaking. Caretaking impoundment can't be based upon the hope or suspicion criminal evidence will be discovered in the vehicle, *United States v. Chavez*, 985 F.3d at 1244 (10th Cir. 2021).

(1) **CHRONOLOGY OF EVENTS**

(1) On April 14, 2021, Appellant Ronald Smith was driving on Bulverde Road in Bulverde, Texas. The time was approximately 1 PM. Smith was returning to his home in Bulverde, after having lunch with his wife Natalie. ROA.24-50724.432.

Smith and Bexar County Sheriff's Deputy Ramiro Sanchez were traveling in opposite directions on Bulverde Road. Deputy Sanchez was on a motorcycle. Smith was traveling in a group of vehicles moving in unison.

(2) Appellee Deputy Sanchez focused on a compact car in a dark color scheme. Sanchez turned his motorcycle around. By this time, the vehicle he sought moved out of sight. Sanchez turned into the entrance to a gated community. Sanchez encountered Smith. Deputy Sanchez blocked Smith's vehicle with his motorcycle. ROA.24-50724.432.

(3) Deputy Sanchez approached Smith's car. Smith exited his vehicle and the two men began speaking to each other. Their initial dialogue was about speeding. ROA.24-50724.432. Within a couple of minutes, Deputy Sanchez handcuffed Smith, searched Smith, and placed him in the back of a cruiser. Many more Deputies arrived on the scene. ROA.24-50724.434.

(4) Sanchez searched Smith's car and ran its license plate. Sanchez rummaged through the car's contents. ROA.24-50724.434-435. Sanchez called Smith's wife and advised her Smith had been arrested. Deputy Sanchez gave Natalie the location of the traffic stop. ROA.24-50724.460.

(5) While Natalie Smith was in route, Sanchez ran Smith for arrest warrants. Smith had no warrants, no stolen vehicle, no contraband, and no weapons on his person, or in his car. Deputy Sanchez never attempted to write Smith any traffic tickets relating to the basis of the stop. ROA.24-50724.434. Natalie Smith arrived from across Bexar County in about 45 minutes. ROA.24-50724.461.

(6) Natalie inquired whether the Deputies would release Smith. Smith had been handcuffed and placed in the backseat of a cruiser for quite some time now. Sanchez now claimed Smith “had a mental health crisis.” ROA.24.50724.461. The basis for the stop was “speeding,” a minor criminal offense. Sanchez refused to release Smith, and ordered his transport by ambulance to a Hospital for mental observation. ROA.24-50724.435-436.

(7) Smith was driven to University Hospital in San Antonio. Smith was evaluated by the medical staff and immediately discharged on his own recognizance. ROA.24-50724.441-446. No “mental health crisis” had occurred—according to the examining Physicians. The Doctors found Smith to be quite sane and rational. Smith was later sent medical bills relating to his compelled mental health seizure. ROA.24-50724.439.

(8) Smith had been detained, seized, handcuffed, searched, arrested, and transported against his will for an emergency mental health detention. Smith was forcefully strapped to a gurney and forced to wear head apparel akin to that of the movie character Hannibal Lecter. ROA.24-50724.436.

(9) Deputy Sanchez had not been dispatched for a “mental health crisis.” Sanchez had not been dispatched for any matter. Rather, Deputy Sanchez was on traffic patrol. Sanchez never pursued his angle of “speeding.” Within 2 minutes of contact, Smith was arrested. ROA.24-50724.434.

(2) DEPUTY SANCHEZ ISN'T ENTITLED TO QUALIFIED IMMUNITY: HIS ACTS WERE WILLFUL

Qualified Immunity is a judicially created affirmative defense. It has 2 components: (1) whether the Plaintiff has shown a violation of a Constitutional right; and (2) whether the right was clearly established. It does not matter in which order they are analyzed by a District Court, *Pearson v. Callahan*, 555 U.S. 223 (2009). Smith showed: (1) violations of Constitutional rights, *Saucier v. Katz*, 533 U.S. 194 (2001), which were (2) clearly established at the time of the violations, *Scott v. Harris*, 500 U.S. 372 (2007).

Deputy Sanchez violated the Constitution, statutory law, and common law on many levels. Initially, Sanchez erred when he thought he could arrest or detain Smith for 2 hours and 27 minutes for the traffic offense of Speeding, Tex. Trans. Code §543.351. ROA.24-50724.382. That is not permissible under statutory law which has existed for approximately 70 years, Tex. Trans. Code §543.004. It isn't permissible under court interpretation either, *Tores v. State*, 518 S.W.2d 378 (Tex. Crim. App. 1975). Particularly so, when Sanchez lost sight of the vehicle he was pursuing. Def. Summary Judg. Ex. A Sanchez Video (30-45 sec.). Also, when Sanchez concedes his radar might need calibrating. (Min. 20:46).

The law is clear under *Terry v. Ohio*, 92 U.S. 1 (1968) that articulable facts are necessary to effect any type of detention. There must be a reasonable suspicion a citizen is armed or violating the law. The law is also clear under *United States v. Cortez*, 449 U.S. 411 (1981). "Officers must have a particularized and objective basis for suspecting the particular person (vehicle) stopped of criminal activity.

Deputy Sanchez erred when he believed that *Terry* encounters could be turned into "fishing expeditions for criminality." Smith's encounter quickly degenerated into an actual arrest. At (Min. 3:28), Smith is **handcuffed**. Smith is now "patted

down” at (Min. 4:09). At (Min. 4:38), Sanchez takes Smith’s car keys. At (Min. 4:40), Smith is placed in the back of a Sheriff’s Cruiser. Smith stays there for **2 hours and 27 minutes**. ROA.24-50724.382. Smith’s car is searched for guns, drugs, and contraband by 3 Deputies, (Min. 9:43). They find none. **No criminality was present, and no criminal charges or traffic tickets resulted.** ROA.24-50724.434.

Terry encounters have a finite life. In *United States v. Sharpe*, 470 U.S. 675 (1985). This Court recognized 20 minutes was long enough for law enforcement to process a traffic stop. Further, that Police must diligently perform their functions related to the nature of the stop. Guns, drugs, and contraband aren’t related to the offense of Speeding. *Rodriguez v. United States*, 575 U.S. 348 (2015) emphasized this principle. In *Rodriguez*, law enforcement did their best to prolong a traffic stop in the hopes of discovering criminality. It’s not reasonable to prolong a detention when the basis of a traffic stop has been addressed. Deputy Sanchez never addressed the basis of his traffic stop. ROA.24-50724.434. No traffic tickets were ever issued. *Id.*

The law is clear that Police purporting to invoke the Community Caretaking function must have aims unrelated to criminal investigation. See *Cady v. Dombrowski*, 413 U.S. at 441 (1973). This was

reinforced in *Caniglia v. Strom*, 593 U.S. at 198 (2021). Searching Smith’s car for guns, drugs, and contraband isn’t related to the Community Caretaking function, Sanchez Video (Min. 9:43).

Although the circuits don’t necessarily agree on what constitutes suicidal, self-destructive, or homicidal behavior, they do agree those things should accompany mental distress. Actually, the Fifth Circuit purports to recognize suicidal behavior as a symptom of a mental crisis, *Cantrell v. City of Murphy*, 666 F.3d 911 (5th Cir. 2012). There, Cantrell’s son had died in a bizarre sporting accident. And, Cantrell was regarded as a ‘suspect’ in his death. The Fifth Circuit recognized that imminent physical harm to third parties can be a symptom of a mental crisis, *Rich v. Palko*, 920 F.3d 288 (5th Cir. 2019). Petitioner Ronald Smith exhibited none of those traits, and was quite lucid, rational, and restrained. ROA.24-50724.441-446.

Texas Mental Health Detention law is more stringent than the federal standard. The Tex. Health and Safety Code §573.001 requires a (1) mental illness; (2) physical harm to oneself or others; and (3) law enforcement have no time to secure a mental health warrant. Smith was not suicidal or violent. ROA.24-50724.441-446. Deputy Sanchez had the luxury of 2 hours and 27 minutes to obtain a warrant, but did not. ROA.24-50724.382.

In *Huntress v. Hickory Trail Hospital, LP*, No. 05-19-00892-CV (Tex. App.—Dallas 2020), a woman was involuntarily seized by Deputies under §573.001. Huntress had made verbal statements of harming herself and depression. She was examined by a Physician at the Hospital. However, this Doctor's examination did not comport with Texas law under §573.0023 in that it did not emphasize Huntress was suicidal and a danger to herself or to others. Huntress sued the facility and staff under Texas statutory and common law torts. During her 12 day compulsory stay, Huntress experienced terror, torment, and isolation which continued to haunt her.

**SMITH'S TRAFFIC STOP WAS CRIMINAL IN
NATURE, AND DEVOID OF REASONABLE
(3) SUSPICION OR PROBABLE CAUSE**

As in *Cady* and *Corbin* above, criminal investigations **and Caretaking must be divorced.** Smith was allegedly stopped for Speeding. That would fall under the Tex. Trans. Code §545.351. Traffic stops are 4th Amendment seizures, *Delaware v. Prouse*, 440 U.S. 648 (1979). Traffic stops are a form of a *Terry* stop, *Berkemer v. McCarty*, 468 U.S. 420 (1984). Traffic tickets are Class C Misdemeanor offenses under the Texas Penal Code §12.23.

Traffic stops require a “reasonable suspicion” violations have been committed. That is not present when Police lose sight of the vehicle they seek, *Klare v. State*, 76 S.W.3d 68 (Tex. Crim. App. 2002). Objective facts and observations are required to stop a particular vehicle, *United States v. Cortez*, 449 U.S. 411 (1981).

Smith objected to Deputy Sanchez’ hearsay and unauthenticated helmet video, and other evidence. ROA.24-50724.407-410. Sanchez purports to monitor a “cluster” of cars moving in the opposite direction. Def. Summ. Judg. Ex. A: (0-30 sec.). Sanchez turns around, (30-45 sec.). Sanchez stated citizens had to “point him in the right direction” of his target vehicle. ROA.24-50724.389. Meaning, he lost direct sight. At (46 sec.), Sanchez blocks Smith’s car coming out of a neighborhood.

Later, Sanchez admitted his radar might need calibrating, (Min. 20:46). Smith denied Speeding. (Min. 1:10). ROA.24-50724.432. Sanchez admitted in writing, Smith was pulled over for Speeding. ROA.24-50724.393-395.

Smith’s encounter quickly degenerated to an actual arrest. At (Min. 3:28), Smith is **handcuffed**. Smith is now “patted down” at (Min. 4:09). At (Min. 4:38), Sanchez takes Smith’s car keys. At (Min. 4:40), Smith is placed in the back of a Sheriff’s Cruiser.

Smith stays there for **2 hours and 27 minutes**.

ROA.24-50724.382. Smith's car is searched for guns, drugs, and contraband by 3 Deputies, (Min. 9:43).

They find none. **No criminality was present, and no criminal charges or traffic tickets resulted.**

ROA.24-50724.434.

Though, Sanchez had ample opportunity to release Smith. At (Min. 7:30), the car comes back registered to Ronald Smith. At (Min. 14:08), the dispatcher states Smith had no wants or warrants. Under *Rodriguez v. United States*, 575 U.S. 348 (2015), Sanchez would be compelled to release Smith at this point—even if the stop were legal to that point.

Under the Tex. Trans. Code §543.004, Police **cannot arrest motorists solely for the offense of Speeding.** In fact, they can face suspension for doing so, Tex. Trans. Code §543.008. Texas case law confirms this, *Tores v. State*, 518 S.W.2d 378 (Tex. Crim. App. 1975). In fact, this Court approved of States limiting fine-only offenses through statutes, *Atwater v. City of Lago Vista*, 532 U.S. at 352 (2001). **Thus, there was no criminal basis to detain, seize, search, or arrest Smith.** Sanchez never even attempted to write any traffic tickets, much less presented them to Smith. ROA.24-50724.434.

**THE FAUX MENTAL HEALTH CRISIS WAS
CONCOCTED TO DRAW ATTENTION FROM A
(4) FAILED CRIMINAL INVESTIGATION**

Deputy Sanchez twice proclaimed **Smith wasn't having a mental crisis** at (Min. 13:38) and (Min. 24:48). Further, the “disposition” of the first 39 minutes of the encounter was classified as a **traffic stop at 1:29 PM**. ROA.24-50724.386. It became an **Emergency Detention at 2:08 PM**. *Id.* At (Min. 38:32), Sanchez blurts out it's now a mental crisis. Thus, Sanchez stated Smith developed a mental crisis 39 minutes into the encounter. Smith was handcuffed at (Min. 3:28), and placed in the back of a cruiser at (Min. 4:40).

However, Smith was summarily discharged from the hospital on his own accord. ROA.24-50724.436. See Smith's medical records. ROA.24-50724.441-446. Smith displayed no signs of mental illness, suicide, or violence. ROA.24-50724.443-444.

Deputy Sanchez had Smith for 2 hours and 27 minutes, and no criminality was present or discovered. ROA.24-50724.382. Sanchez never wrote any traffic citations. ROA.24-50724.434. Smith denied committing any traffic violations. ROA.24-50724.432. By any stretch, a 2 hour and 27 minute “seizure” constitutes an illegal arrest under these circumstances. See *Beck v. Ohio*, 379 U.S. 89 (1964). Further, a 147 minute “detention” would violate

United States v. Sharpe, 470 U.S. 675 (1985). The holding in *Sharpe* said Police have to diligently pursue traffic stops. *Sharpe* held 20 minutes was long enough for perfunctory police checks and procedures.

THE FIFTH CIRCUIT APPROVED OF “POLICE FISHING EXPEDITIONS” & LAVISH EXTENSIONS
(5) OF TRAFFIC STOPS AT ORAL ARGUMENT

Oral Argument in No-24-50724 was held on June 3, 2025 in New Orleans. The link is below.

<https://www.dropbox.com/scl/fi/qudguvqvky68wzwgp59ch/4931508973348249540.mp3?rlkey=8ioazxmfs1pnsdi0c1poh9vh5&st=dbea1fky&dl=0>

At (Min. 20:57) Bexar Counsel admits the **Deputies lied** when they claimed “Smith was foaming at the mouth.” At (Min. 22:02), Bexar Counsel **“relies on the Caretaking Function”** to justify the Appellees’ conduct. At (Min. 23:39) Chief Judge Elrod states, **“the video doesn’t show Speeding.”** That is Counsel’s opinion as well. If there is no lawful basis for a traffic stop—all subsequent events are unlawful, *Beck v. Ohio*, 379 U.S. 89 (1964).

However, the Judges at Oral Argument desired Counsel to accept a “lesser” standard of mental crisis than suicidal and self-destructive behavior, or

homicidal and assaultive behavior to the public. This included: “strange answers,” at (Min. 5:55-6:05, and 8:08). It included: “behaving strangely” at (Min. 9:26). The Panel proposed an absurd array of possibilities: “can’t remember information” at (Min. 12:03-12:08). The Panel channeled Freud: “Schizophrenia” at (Min. 17:30). It reached the point of absurdity: “any kind of issues which are not suicidal or homicidal” at (Min. 17:55 to 18:00).

Smith is handcuffed at (Min. 3:28), and placed in a cruiser at (Min. 4:40—where he never leaves). At (Min. 6:53), Deputies search his car for guns, drugs, and contraband. None were found. Smith is held for 2 hours and 27 minutes. ROA.24-50724.382. At (Min. 7:30), the car comes back registered to Ronald Smith. At (Min. 14:08), Smith has no wants or warrants.

Sanchez and crew “went on a fishing expedition.” No criminality was found. Still, the Deputies would not let Smith go. At (Min. 45:05—“Smith is going to the hospital).” Smith was summarily discharged being quite calm, sane, and rational. ROA.24-50724.441-446.

No matter how the scenario plays out; Ronald Smith was unlawfully seized. A duration of 2 hours and 27 minutes was stated. ROA.24-50724.382. This exceeds the 20 minutes of a valid *Terry* encounter,

United States v. Sharpe, 470 U.S. 650 (1985). See *Karnes v. Strutski*, 62 F.3d 485 (3rd Cir. 1995), where a motorist was stopped for Speeding. The police extended the encounter 2 ½ hours looking for drugs.

In *Strepka v. Sailors*, 494 F. Supp.2d 1209 (D. Colo. 2007), Police stopped a motorist for “greatly exceeding the speed limit.” Strepka disputed that fact, and this presented a triable issue of fact on his *Terry* claim.

The Panel was quite fine with Police “fishing expeditions” that have nothing to do with the original traffic stop or contact. Oral Argument at (Min. 6:45-7:01. Min. 7:05-7:38. Min. 7:48-8:04). The Fifth Circuit issued a 1 sentence affirmation of the District Court’s Judgment on June 5, 2025. Rehearing En Banc was denied on June 23, 2025.

Clearly, legal and factual problems existed which would preclude granting Summary Judgment in No. 24-50724. Federal Courts often turn a blind eye to Police improprieties. Supreme Court review is necessary to compel Constitutional compliance.

IV. REASONS FOR GRANTING THE WRIT

(1) THE FIFTH CIRCUIT WAS WRONG: SMITH’S CONTACT, SEIZURE, & SEARCH WERE ILLEGAL

Chief Judge Elrod conceded “the video didn’t show Speeding” at Oral Argument, (Min. 23:39).

Granted, that is a proper observation. But, that translates into a legal quandary in the form of an illegal *Terry v. Ohio*, 392 U.S. 1 (1968) detention. Deputy Sanchez also remarked his radar might need calibrating in Def. Summary Judgment Ex. A (Min. 20:46).

Respondent Deputy Sanchez himself stated on two occasions **Smith wasn't having a mental crisis**, at (Min. 13:38) and (Min. 24:48). Smith's arrest lasted 2 hours and 27 minutes. ROA.24-50724.382. It was an actual arrest. Smith was handcuffed at (Min. 3:28), had his car keys taken at (Min. 4:38), and was placed in the back of a cruiser at (Min. 4:40), where he never leaves.

There was no Community Caretaking occurring for the first 39 minutes of the encounter, (Min. 38:32). In fact, it was classified as a **traffic stop for the first 39 minutes**. ROA.24-50724.386. Smith is handcuffed at (Min. 3:28). Smith is never free to leave from that point. Smith had his car searched for drugs, guns, and contraband by 3 Deputies at (Min. 9:43). The vehicle plates were run to see if the car was stolen at (Min. 7:30). Smith was checked for fugitive wants and warrants at (Min. 14:08).

Smith had no mental or emotional crisis on April 14, 2021. The Physicians found Smith to be quite cogent, calm, and docile. ROA.24-50724.441-446.

Smith was summarily discharged from University Hospital. In Smith's Affidavit, he explained how he wasn't agitated, emotional, violent, or suicidal. ROA.24-50724.435. Further, Smith is a commercial truck driver with a Hazardous Materials credential.

The HazMat designation incurs much scrutiny since the 9/11 Terror Attack. As a result, Smith is medically examined by authorities. ROA.24-50724.457-458. Smith is mentally evaluated as well. ROA.24-50724.448-452. Smith is also randomly tested for drugs. ROA.24-50724.454-455.

Moreover, Smith wasn't suicidal as in *Cantrell v. City of Murphy*, 666 F.3d at 923 (5th Cir. 2012). Nor was Smith aggressive or violent to third persons, as in *Rich v. Palko*, 920 F.3d at 296 (5th Cir. 2019). Thus, Smith didn't satisfy the stated requirements for a warrantless mental seizure under prevailing Fifth Circuit law.

Beyond that, the Appellees couldn't satisfy the Tex. Health and Safety Code §573.001. That is Texas' warrantless mental health seizure statute. It is more demanding than the federal standard because of provision 3. It requires: (1) a person to have a mental illness; (2) the person is likely to harm themselves or third parties; and (3) there is no time to get a Warrant. Deputy Sanchez held Smith for 2 hours and 27 minutes without seeking or

obtaining a Mental Health Warrant. ROA.24-50724.382.

Finally, Smith didn't and couldn't display the true symptoms of a **clinical mental illness**. "A mental disorder is a syndrome characterized by clinically significant disturbance in an individual's cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning." 2022 Diagnostic and Statistical Manual of Mental Disorders, DSM-5-TR, p.14. **Reactions to social stimuli—are not mental illnesses**. *Id.* For example, the death of a loved one. **Socially deviant behaviors are not mental illnesses**. *Id.* In other words, actual mental illnesses are a pathology—not a mood swing. There is also a distinction between true suicidal efforts to end one's life versus mundane injuries which cause minor trauma—but do not cause death. These could be bruising and minor cutting, etc. DSM-5-TR, p. 822.

This is the perfect case to spotlight the perversion of the Community Caretaking Function as a font for fruitful and failed criminal investigations by Police.

FEDERAL COURTS AND STATE COURTS ALLOW
(2) POLICE UNWARRANTED CONSTITUTIONAL
INTRUSIONS UNDER COMMUNITY CARETAKING

For the most part, this Court has only tangentially touched upon the conundrum of Police

using the Caretaking Function. This Court gained firsthand experience in *Caniglia v. Strom*, 593 U.S. 194 (2021) of the indulgences afforded Police when asserting “Caretaking.”

The loquacious Judge Selya claimed “police performing caretaking functions are entitled to a **special measure of constitutional protection.**” *Caniglia v. Strom*, No. 19-1764 (1st Cir. 2020). In the First Circuit iteration, they allowed Police to enter and search Caniglia’s home (without a warrant). Police seized firearms—**after Caniglia had been transported to the Hospital.** Police seized Caniglia’s weapons, magazines, and ammunition. In retrospect, Caniglia voluntarily agreed to mental observation. That would tend to indicate rationality. That is quite an extravagant stretch of the Caretaking Function. Beyond that, all of this activity occurred the day after his marital dispute! In other words, not in the midst of an emotional outburst.

In *Sutterfield v. City of Milwaukee*, No. 12-2272 (7th Cir. 2014), a citizen was “emergency detained” by Police. The Police relied on statements of others to draft the legal instruments for seizure. However, by the time the Police found Sutterfield, any emotional angst had subsided. This was 9 hours after notification from her physician. The Police were denied entry to her house. But, they crashed through the door, tackled Sutterfield, and ransacked

her home for guns. This included a locked case. The Seventh Circuit noted the State of Milwaukee “liberally construed the Caretaking Function.” However, the Seventh Circuit felt Caretaking was too much of a stretch. It found that “exigent circumstances” might warrant the intrusion—which were 4th Amendment violations. In *Sutterfield*, the Court observed the nuances of the law were too much for yeoman Police to fathom, at (p.13). In other words, the law and the facts were too jumbled for laypeople to comprehend.

In *Graham v. Barnett*, No. 19-2512 (8th Cir. 2021), the Eighth Circuit recognized incongruity in circuit law, and in its own decision on Emergency Detentions. Essentially, Police claim Graham made a series of 911 calls they thought “were odd.” Then, an anonymous 911 caller spiced things up and claimed Graham had threatened them. Police performed a welfare check on Graham and found her to “be OK.” Graham called Police again—on unrelated matters. At this point, Police made a choice to Emergency Detain Graham, based upon a perceived mental illness and threat of suicide or harm to others. Police were denied entry. They crashed through Graham’s door and seized her. She was transported for mental observation and released. The Physicians found Graham “royally pissed,” but otherwise rational. The Eighth Circuit

affirmed Summary Judgment. Graham appealed to this Court during the pendency of *Caniglia*. On remand, the Eight Circuit reaffirmed.

This Court can witness the “confusion” displayed by the judiciary and government. This is the perfect vehicle for this Court to enunciate “the bare minimum” for what is required for a warrantless Emergency Mental Health Detention. The individual states appear to add to the confusion.

POLICE AND COURTS MISCONSTRUE HARMLESS
(3) TRAITS AS A BONA FIDE MENTAL ILLNESS

As shown above, Police make a plethora of factual and legal mistakes which escape liability “because the law was unclear.” In No. 24-50724 itself, Chief Judge Elrod remarked Sanchez’ helmet video didn’t depict Speeding, Oral Argument (Min. 23:38). Thus, there would be no lawful basis for any Police contact with Smith. Further, Deputy Sanchez twice proclaimed Smith **had no mental crisis**, Def. Summary Judgment Ex. A (Min. 13:38, Min. 24:48).

The Fifth Circuit, itself, conflated personal impressions with a dangerous mental illness at Oral Argument. This included “strange answers,” at (Min. 5:55-6:05, and 8:08). “Behaving strangely” was identified at (Min. 9:26). The Panel also took offense with “can’t remember information” at (Min. 12:03-12:08). Counsel Cano stood firm on his position a

person needed: (a) a mental illness; (b) with suicidal; or (c) homicidal tendencies. The Panel then descended into absurdity, “any kind of issues which are not suicidal or homicidal” at (Min. 17:55 to 18:00).

Smith was summarily discharged from the Hospital. Smith was found to be rational, calm, cooperative, cogent, and non-violent. See Smith’s Medical Records from April 14, 2021. ROA.24-50724.441-446.

In *Graham* above, Police sought a mental health detention because a citizen had called police dispatch on several occasions. However, none of the calls showed distress or violence. That was the Police Defendants’ “interpretation” of the law. As the 2022 DSM-5-TR Manual of Mental Disorders states, a true mental illness is a pathology—not a mood swing or reaction to a social stimulus, p. 14.

In No. 24-50724, Bexar Counsel Herrera summoned the Caretaking Function as the legal basis for Sanchez’ conduct because he knew it was a “lifeline.” Further, Herrera knew the Deputies’ failed criminal investigation wouldn’t pass Constitutional muster. Oral Argument at (Min. 22:02).

Police need to be “spoon fed” on what is legal and that which is Unconstitutional. The Opinion in *Sutterfield* demonstrates that. There, the State of

Milwaukee fueled the fire and included a host of Police conduct within the Caretaking Function. Only this Court can delineate the 4th Amendment nuances.

(4) POLICE THEMSELVES ADMIT THEY ARE NOT QUALIFIED TO ASSESS “MENTAL DISTRESS”

No one would confuse an ordinary Patrol Officer with a Rhodes Scholar. Thus, many of their subjective and ad hoc determinations of “mental illness” are flawed. Particularly, in “street encounters.”

For example, consider what is stated in this Texas Treatise on the role of Police in responding to mental crises. Some of the behaviors Police look for: **rapid speech, flight of thought, no eye contact, constant movement, quick movements, etc.** Responding to the Mentally Ill: A Guide for Texas Police Officers. Houston Police Department; 2018, p. 11. Those seem to be the characteristics of someone on drugs, not someone who is mentally disturbed to the point of committing suicide or homicide.

Police readily seize citizens who are not suicidal or homicidal under ‘Emergency Mental Health Detentions,’ *Id.* at pp. 17-18.

What's more, Texas law permits Peace Officers to seize citizens without actually witnessing mental distress, Tex. Health and Safety Code §573.001(c)(1).

“Peace Officers are not trained or expected to diagnose mental illness,” Dr. Daryl Knox, MD, Chief Medical Officer of the Harris Center for Mental Health and IDD. “People may appear mentally ill due to drugs, medical problems, brain injuries, etc.” *Id.*

Furthermore, Government Officials recognize there is no consensus on what constitutes a substantial risk of harm. There have been roundtable panels composed of lawmakers, the judiciary, medical professionals, and Police to discuss this very issue. Texas Judicial Commission on Mental Health: Emergency Detention Round Table Report 2023; p. 8. Many Texas Peace Officers do not know the statutory mental health laws in place, *Id.*, p. 7.

This is the perfect scenario for this Court to enunciate foundational standards that lower courts and Police can reference when assessing mental distress that might cause suicide or harm to third parties.

THE FEDERAL CIRCUITS MARCH TO THEIR OWN
(5) DRUM REGARDING EMERGENCY MENTAL
DETENTIONS & RARELY GET THINGS RIGHT

Often, the Federal Circuits act as impish children until corrected by this Court. Regarding Emergency Mental Health Detentions, the Circuits fashion their own legal tapestries.

All of the federal circuits to have addressed the issue of emergency mental health detentions purport to require **probable cause**. Emergency mental detentions are proper when: (1) there is **probable cause** to believe; (2) a person is mentally ill; **and** (3) **dangerous to themselves or others**. In practice though, the element of physical danger can be overlooked in the Circuits' rush to grant Qualified Immunity.

In *Roberts v. Spielman*, 643 F.3d 899 (11th Cir. 2011), the Eleventh Circuit reversed the denial of Qualified Immunity during a mental intervention. Police were requested to perform a welfare check on a citizen. The basis: a relative couldn't get in contact with Roberts for the past hour. Deputy Spielman arrived, entered into the residence after being told to leave, and dragged Roberts outside. At no time was Roberts violent or suicidal. In fact, Spielman told the sister-in-law he couldn't emergency detain Roberts in the absence of physical violence or harm. The

Eleventh Circuit finagled “exigent circumstances” into the equation to grant Qualified Immunity.

In *Ahern v. O'Donnell*, 109 F.3d 809 (1st Cir. 1997), the First Circuit held Police had probable cause to mentally detain a fellow officer. Though, much of Ahern’s behavior could be categorized as harassment or stalking—rather than the threat of physical harm. Ahern left numerous phone messages on his former girlfriend’s answering machine. Eventually, Police effected a warrantless mental health seizure, transporting Ahern for evaluation. The Physicians did not discover any pathologies, and Ahern was released after 10 days.

In *Maag v. Wessler*, 960 F.2d 773 (9th Cir. 1991), Police mentally detained a farmer who had been mixing toxic fertilizer chemicals on his ranch. Maag’s family became concerned of the malodorous effects of the chemicals on Maag. Maag seemed mentally obtuse, and physically fatigued. However, Maag was never suicidal or violent. Police forcefully seized Maag and took him for mental observation. Maag was discharged the next day. The Ninth Circuit granted Qualified Immunity.

In *Monday v. Oulette*, 118 F.3d 1099 (6th Cir. 1997), Monday was drinking alcohol. Monday erroneously engaged a Psychologist in a phone call while drinking. The Psychologist became concerned

Monday might drink alcohol with his depression medicine, and called Police to check on him. Police received an inaccurate message that Monday had overdosed and attempted suicide. Police arrived at Monday's home and mistakenly believed he overdosed on pills. Monday refused to go for mental evaluation. Officer Oulette told Monday he would pepper spray Monday in the face if he refused. In fact, Monday refused treatment and Oulette pepper sprayed him. The Sixth Circuit granted Qualified Immunity. Monday had a severe reaction to the pepper spray.

In *Sherman v. Four County Counseling Center*, 987 F.2d 397 (7th Cir. 1993), an Officer filled out paperwork for an emergency mental health detention. This was primarily based upon Sherman's extant criminal charges. Sherman had been charged with Criminal Harassment. However, Officer Boyles didn't add any new facts or allegations which would demonstrate Sherman was a danger outside of the criminal allegations. Shortly, a judge determined that Sherman's mental detention wasn't warranted. The Seventh Circuit granted Qualified Immunity. Remember, **socially deviant behaviors are not mental illnesses**. 2022 Diagnostic and Statistical Manual of Mental Disorders, DSM-5-TR, p.14. **Reactions to social stimuli—are not mental illnesses**. *Id.* For example, the death of a loved one.

In *Cloaninger ex rel. Estate of Cloaninger v. McDevitt*, 555 F.3d 324 (4th Cir 2009), a series of misinterpreted phone calls led authorities to believe Cloaninger had attempted suicide. Police arrived and sought to take him for mental evaluation. Cloaninger demanded to be taken to the V.A. Hospital. An impasse ensued, and Police yanked Cloaninger through the front door, breaking his arm while handcuffing him. Cloaninger was deemed too drunk for mental evaluation. He was discharged from the Hospital after receiving treatment for his broken arm. The Fourth Circuit asserted exigent circumstances existed, and granted Qualified Immunity.

(6) THE FEDERAL CIRCUITS MUST BE ‘URGED’ TO FOCUS ON PHYSICAL VIOLENCE TO ONESELF OR TO THIRD PARTIES IN ALLEGED MENTAL CRISES

The few occasions the Circuits properly discern fake from true mental crises—they focus on the presence or lack of suicidal or homicidal tendencies. That is the crux of a mental crisis; someone is so overcome by a mental defect they make efforts to kill themselves, or harm third parties. Courts err when they lose sight of those manifestations.

In *Bruce v. Guernsey*, 777 F.3d 812 (7th Cir. 2015), Police received a 911 call a teenage girl was suicidal. The problem was that the Officers did not witness any suicidal, emotional, or homicidal

behaviors from the girl. They relied upon hearsay in a 911 transmission. The source of the call was the girl's boyfriend. The couple had a quarrel, and the girl spent the night with a classmate. Police previously contacted Bruce, and thought the girl was fine. Deputy Guernsey went to the girl's home and took her to the hospital. Guernsey falsified detention paperwork and stated the girl pondered suicide. The Seventh Circuit denied Qualified Immunity for Deputy Guernsey. They held Guernsey would have needed to observe suicidal, self-destructive, or dangerous behavior by Bruce.

In *Rodriguez v. City of New York*, 72 F.3d 1051 (2nd Cir. 1995), the Second Circuit took issue with the New York Mental Hygiene Law (MHL §9.39). The law and interpretations of it didn't require (1) probable cause; (2) a person had a mental illness and posed a danger to themselves or others. The Second Circuit emphasized this meant 'suicidal tendencies' or actual physical violence to others.

In *Meyer v. Board of County Commissioners, Harpers County, OK*, 482 F.3d 1232 (10th Cir. 2007), Police took the Plaintiff in for an emergency mental health detention. The Plaintiff had just ended a romantic relationship with a civil servant employee of a city. The Plaintiff had been 'sucker punched' and assaulted. She claimed it was her former boyfriend. So, Deborah Meyer went to confront Mark Erwin.

The Police were called, and, somehow, the encounter degenerated into an emergency mental health detention. The documents proffered by Police showed Meyer made no threats or acts of violence. Indeed, Meyer was not violent, nor made overt threats. The examining physician admitted her based upon the documents submitted by Police. Meyers was released the next day. The 10th Circuit held the law was clearly established that **probable cause** was necessary to show a citizen was suicidal, or could harm others.

In *Fisher v. Harden*, 398 F.3d 837 (6th Cir. 2005), an elderly man sought to hunt groundhogs on his rural property. Fisher took overalls, a chair, a rifle, and a tripod to position himself in his field. Fisher was about 250 yards from the road, and a motorist called 911. The motorist improperly stated a man was tethered to the railroad tracks. This generated a 'suicide' code for the responding Deputies. The Deputies arrived, and ordered Fisher to move toward them. As Fisher walked to them, the Deputies noticed a rifle. They commanded him to drop the rifle, which he did. The Deputies had their guns trained on him, and handcuffed him face-down on the road. Fisher went into cardiac arrest and became permanently disabled. The 6th Circuit recognized the District Court wrongly characterized the detention as a *Terry* stop, rather than a full 4th

Amendment seizure. The 6th Circuit held the Deputies did not have probable cause to seize Fisher under the guise of an emergency mental health detention because there were **no facts** to show he was suicidal or was a threat to others.

In *Meyers v. Patterson*, 819 F.3d 625 (2nd Cir. 2016), a child's Mother was targeted by the elementary school. Meyers was labeled as acting 'irrationally.' Child Protective Services became involved and a CPS Caseworker called Police. The Caseworker and an Officer agreed that Myers should be psychologically evaluated. The Caseworker's notes only mention, 'uncooperative,' 'annoyed,' and 'irrational.' There is no indication of suicide or dangerousness. Summary Judgment for the Officer was reversed. In fact, the Officer proffered no sworn evidence on Summary Judgment.

In *Kerman v. City of New York*, 261 F.3d 229 (2nd Cir. 2001), Plaintiff Kerman had a history of depression and personality disorder. One night, his girlfriend thought he was in a suicidal mood. She call his Doctor, who then informed Police that Kerman was suicidal, acting crazy, and "might have a gun." Police arrived and pounded on the door. Kerman opened the door in a bath towel and the Police pounced on him, roughing him up and pointing a gun to his head. The Police searched Kerman's apartment looking for a gun that did not

exist. The Police tormented Kerman and bound him for transport to the Hospital. Kerman was taken to Bellevue Hospital for overnight observation and then released. The District Court erred in ruling the Police could enter Kerman's Apartment solely based upon an anonymous 911 call. Summary Judgment was reversed against the Police because they did not observe irrational, suicidal, or threatening behavior.

In *Goines v. Valley Community Services Board*, No. 15-1589 (4th Cir. 2016), a citizen was having problems with his cable reception. The cable technician told Goines one of his neighbors had spliced into his cable connection. Goines walked across the street to inform Police of this crime. The Police accompanied him back to his apartment, but did not turn on the TV to hear 'the strange noises.' Instead, the Police asked him if he needed 'help.' Goines thought this meant for his cable problem. Instead, Police handcuffed him and took him a mental health facility. Goines was involuntarily detained for 5 days. When he got out, he sued. The Fourth Circuit held that Police had no basis to believe Goines was suicidal or dangerous. Goines had cerebellar Ataxia that affected his speech, motor coordination, and balance. But, Goines had no mental health issues.

In *Rodriguez v. City of New York*, 72 F.3d 1051 (2nd Cir. 1995), a woman walked into Bellevue

Hospital to ask for free sleeping pills. Upon an interview with staff, the woman stated she had trouble sleeping and had just ended a romantic relationship. Bellevue staff doctors turned these innocuous statements into a pathologically depressed and troubled state. The Hospital forcefully seized her under the Emergency Mental Health Detention statute of New York, the New York Mental Hygiene Law (MHL §9.39). The Hospital compounded the situation by trying to retain her beyond the initial evaluation period. The problem was, the statute and its interpretations were not clear on whether the patient had to be suicidal and pose a substantial risk of harm to themselves or others. That is the **federal standard**. The 2nd Circuit tore into the examining Psychiatrists for their analysis and professional incompetence.

In *Bailey v. Kennedy*, 349 F.3d 731 (4th Cir. 2003), Police unlawfully seized Bailey in an emergency mental health detention. On May 27, 1998, Bailey became intoxicated and rode his bike to his neighbor's house—where he wrecked and fell off the bike. The neighbor called 911, stating Mike Bailey “was going to commit suicide.” Officer Kennedy responded and ended up beating Bailey to a bloody pulp. Officer Kennedy obtained a Commitment Order falsely stating Bailey had attacked him. There was a second incident with

Officer Kennedy responding. On September 3, 1998, Mike Bailey was intoxicated and tried to cash a check at Wachovia Bank. The teller refused and the two had words. Bailey cussed them out and left. The employees called the Police. Sgt. Simon encountered Bailey and decided not to arrest him. However, Officer Kennedy later showed up and physically attacked Bailey again. The 4th Circuit held the law was clearly established probable cause was required that a person have a mental illness, and be suicidal or violent to others. The 4th Circuit held there was **no evidence** Mike Bailey was suicidal or violent.

V. CONCLUSION

The recurring subject of Warrantless Mental Health Detentions is problematic. Lower federal courts indulge Police with “exigent circumstances,” “Community Caretaking,” or other doctrines to pardon unlawful seizures and searches. This Court can pronounce minimal standards which delineate the legal principles required to safeguard the Fourth Amendment. This Petition for Certiorari should be granted.

Respectfully Submitted,

/s/ Andres Cano

Petitioner's Counsel

Supreme Court Bar# 325608

Texas Bar# 24100071

1140 South Laredo, P.O. Box 830742

San Antonio, Texas 78204

(210) 231-0433

(210) 263-7667 (fax)

dx4829@gmail.com

APPENDIX

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**UNITED STATES
COURT OF APPEAL FOR
THE FIFTH CIRCUIT**

No. 24-50724

United States Court of Appeals
Fifth Circuit

FILED

June 5, 2025

Lyle W. Cayce, Clerk

***Ronald Smith,
Plaintiff-Appellant,***

versus

***Bexar County;
Ramiro Sanchez,
Defendants—Appellees.***

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:23-CV-623

Before Elrod, *Chief Judge*, Engelhardt, *Circuit Judge*, and Guidry, *District Judge*.*

Per Curiam**

Having reviewed the briefs, record, and opinion of the district court, and having heard oral argument, we see no reversible error. Affirmed.

5th Cir. Rule 47.6.

*United States District Judge for the Eastern District of Louisiana, sitting by designation.

** This Opinion is not designated for publication.

***UNITED STATES
COURT OF APPEAL FOR
THE FIFTH CIRCUIT***

No. 24-50724

United States Court of Appeals
Fifth Circuit

FILED

June 23, 2025

Lyle W. Cayce, Clerk

***Ronald Smith,
Plaintiff-Appellant,***

versus

***Bexar County;
Ramiro Sanchez,
Defendants—Appellees.***

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:23-CV-623

ON PETITION FOR REHEARING EN BANC

Before Elrod, *Chief Judge*, Engelhardt, *Circuit
Judge*, and Guidry, *District Judge*.*

Per Curiam**

Treating the petition for rehearing en banc as a petition for panel rehearing (5th CIR. R. 40 I.O.P.), the petition for panel rehearing is DENIED. Because no active member of the panel or judge in active service requested that the court be polled on rehearing en banc. (Fed. R. App 40 and 5th CIR. R. 40), the petition for rehearing en banc is DENIED.

*United States District Judge for the Eastern District of Louisiana, sitting by designation.

**UNITED STATES
COURT OF APPEAL FOR
THE FIFTH CIRCUIT**

No. 24-50724

United States Court of Appeals
Fifth Circuit

FILED

June 30, 2025

Lyle W. Cayce, Clerk

***Ronald Smith,
Plaintiff-Appellant,***

versus

***Bexar County;
Ramiro Sanchez,
Defendants—Appellees.***

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:23-CV-623

Before Elrod, *Chief Judge*, Engelhardt, *Circuit
Judge*, and Guidry, *District Judge*.*

JUDGMENT

This cause was considered on the record on
appeal and was argued by counsel.

IT IS ORDERED and ADJUDGED that the Judgment of the District Court is AFFIRMED.

IT IS FURTHER ORDERED that each party bear its own costs on appeal.

*United States District Judge for the Eastern District of Louisiana, sitting by designation.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. See Fed. R. App. P41(b). The court may shorten or extend the time by order. See 5th Cir. R. 41 I.O.P.

RONALD SMITH'S MEDICAL RECORDS
FROM 4/14/21: ROA.24-50724.442

Admit date and time: 4/14/2021 3:26pm

No chief complaint on file.

HPI

40yo male with no PMHx reporting he was brought in by SAPD after having an argument with a police officer due to him being a “cop watcher.” At this time, the patient is asymptomatic. He denies having any prior history of mental disease, substance abuse disorders or emergency detentions. He does not take medication at home, has never had surgeries and does not know about his family history as he is not in close contact with them. The patient works as a truck driver and lives with his wife, Natalie Smith.

At this time the patient does not appear to be a threat to himself or others. He denies any suicidal ideation, homicidal ideation or auditory or visual hallucinations. He is non-violent, non-agitated and cooperative with staff and willing to work with the team to get cleared to go home.

Columbia suicide scale

Low risk

Emergency Detention

Can be lifted

RONALD SMITH'S MEDICAL RECORDS
FROM 4/14/21: ROA.24-50724.443

Mild pain over wrists where hand-cuffs were placed.

Psychiatric/Behavioral: Negative for agitation, hallucinations, self-injury and suicidal ideas.

All other systems reviewed and are negative.

RONALD SMITH'S MEDICAL RECORDS
FROM 4/14/21: ROA.24-50724.444

**Comments: Erythema over bilateral wrists.
Skin is intact. Scattered areas of pink
hypopigmentation on arms, hands, and neck.**

Psychiatric:

Mood and Affect: Mood normal.

Behavior: Behavior normal.

Thought Content: Thought content normal.

Judgment: Judgment normal.

MDM

Number of Diagnoses or Management options

Diagnosis management comments: 40yo, male with no relevant PMHx, here under emergency detention after having an argument with a police officer on the street. The patient is currently stable, asymptomatic, non-violent, and oriented and cooperative. Emergency detention can be lifted. Patient does not appear to be a threat to himself or others. Mental exam is normal and perceptual disturbances were noted. He denies SI, HI or AVI. Will be discharged home. Does not transportation to be arranged for him.

RONALD SMITH'S MEDICAL RECORDS
FROM 4/14/21: ROA.24-50724.445

ED notes

Pt pulled over by cop, displayed loud behavior, was brought her for “anxiety.”

Clinical Notes

ED Attestation Note

Joshua G Tsau, MD at 4/14/2021 at 15:26

I have interviewed and examined the patient. I have discussed with the Resident and agree with their evaluation and plan of care as documented below.

I performed a history and mental examination of Ronald Smith and discussed his management with **Dr. Ramirez**. I agree with the history, physical, assessment, and plan of care, with the following exceptions: none.

40yoM no sig pmh

-ED by Police given odd behavior

-pt stopped at routine traffic stop for speeding, but was combative and argumentative with PD

-in eval, pt is normal VS, calm and cooperative w/o and s/s of psychosis, depression, mental decomp, acute toxidrome. Discussed w/pt who will find a way to get back home in Bulverde. Will life Emerg detainment.

Joshua G Tsau

Joshua G Tsau, MD

4/14/2021 1626pm

SUMMARY JUDGMENT AFFIDAVIT OF
RONALD SMITH

ROA.24-50724.432-437

(1) My name is Ronald Smith. I am the Plaintiff in this Cause, and I am over the age of 18. I have personal knowledge of these matters and make the following statements under oath.

(2) On April 14, 2021, I had lunch with my wife Natalie Smith, near Kirby, Texas. After dining with her, I sought to return to our home in Bulverde. The lunch was pleasant.

(3) As I drove on North Bulverde Road, I observed all of the posted traffic laws, and drove safely with the flow of traffic. I sensed something wrong with one of my tires. So, I pulled into an entrance to a neighborhood to assess the situation.

(4) As I moved my car into a position to stop, a traffic officer on a motorcycle blocked my path with his motorcycle. I exited my car to see what his purpose was. It turned out to be Deputy Ramiro Sanchez. Deputy Sanchez seemed animated, and confrontational. I wanted to know what his purpose was for blocking my automobile.

(5) Deputy Sanchez shouted about my speed on North Bulverde. I was driving with the flow of traffic, and several other cars even passed me. I don't recall seeing a motorcycle unit in my travels or having one anywhere near me in my travels. I certainly never had any driving interactions with Deputy Sanchez. During a later conversation, Deputy Sanchez expressed concerns that his 'radar needed recalibrating.'

(6) At this point, Deputy Sanchez ‘was in my face.’ Sanchez was yelling and gesturing with his hands. He ordered me to move behind my car. At the trunk, Sanchez started demanding information. I have a learning difficulty with Dyslexia. It doesn’t allow me to summarily recall information. I have been diagnosed with the Dyslexic condition since elementary school. I have to adapt and make allowances to learn or try to retain information. It has been a problem my whole life. This Dyslexic condition provides an obstacle to learning and in communicating with others. It takes me longer to comprehend information. I have to use electronic applications to speak into my phone in order to produce written text. During my formative school years, I was exclusively enrolled in special education classes. As an adult, I have frequented Sylvan learning center. I made my mental disability known to Deputy Sanchez early on in our encounter. I implored Deputy Sanchez to run my license plate. The new vehicle registration papers were also in the front seat. These contained personal information which Sanchez could have used to confirm my identity. My wife Natalie often serves as an intermediary to process and explain information to me and for me.

(7) Sanchez asked for my identification. My Driver’s License was actually in the console. I keep it there as a matter of practice. I had placed it there during lunch with my wife. Deputy Sanchez became more frantic. I advised him to run my license plate. Sanchez did call in my license plate. It came back registered to a Ronald Smith—me. Within my car’s front seats was the vehicle registration with much personal information in it.

(8) Deputy Sanchez then ordered me to the front of my car. I was standing near the hood, when he started to ‘pat me

down.’ Deputy Sanchez became obsessed with drugs, guns, and contraband in my car. Sanchez stopped talking about traffic matters. He asked all manner of questions and I replied with some jokes. I told him the only thing I had on me were my car keys. I reached to retrieve them for him, when he said he was going to handcuff me. At that point, I was handcuffed and another Deputy took me away and placed me in the back of a cruiser. I had no drugs, guns, or contraband on my person, in my possession, or in my car. The Deputies certainly scoured my person and automobile for such items.

(9) When Deputy Sanchez handcuffed me, he torqued and twisted my arms and shoulders in a pronounced manner. Sanchez then handcuffed my wrists behind my back. The handcuffs were excessively tight and cut into my wrist tissue and nerves. These injuries were noted by the Doctors at University Hospital during the mental health evaluation on April 14, 2021. This injury affected me for some time afterwards. I am a truck driver and depend upon my wrists to drive. The injury affected my ability to move and use my wrists in a manner needed to perform my job. Driving an 18 wheeler is physically demanding. You need to use your wrists, hands, and shoulders to drive, and to check on or affix your load. The injuries also caused much pain and discomfort.

(10) As the possessor of a Texas Commercial Driver’s License, I cannot incur any traffic tickets. I would likely be fired, and certainly be denied future employment. I must have a pristine driving record. Because of this, I must drive slowly and conservatively at all times. Further, I have a Hazardous Materials Endorsement. To receive this, I had to undergo an extensive background check by the Federal

Bureau of Investigation and the Department of Homeland Security. They screen for any criminal activities and past mental history. I am periodically examined and required to take a physical examination. Each renewal period, I must retest.

(11) From my vantage point in the Cruiser's backseat, I could see Sanchez and 2 other Deputies rummaging the contents of my car. I just sat in the backseat, and remained silent. I was neither mad nor emotionally distressed. Rather, I was perplexed by Deputy Sanchez' actions.

(12) After the public and shocking murder of George Floyd, I became concerned about those societal issues. I did have an apprehension at being harmed by law enforcement. But, I have never had any emotional or anger issues. I have never had counseling, therapy, treatment, or the diagnosis of such conditions. I was not under the effects of medications either. By nature, I am not an emotional, violent, or aggressive person.

(13) On April 14, 2021, I was not angry, depressed, or suicidal. I was not physically confrontational or violent towards the Bexar County Sheriff's Deputies. I did resent the fact of being stopped, detained, and arrested by Deputy Sanchez though. To me, it seemed like a melodramatic production and waste of resources. So much time elapsed, that my wife, Natalie, had time to drive out to the site.

(14) At this point, the topic of 'mental crisis' arose from the Deputies. However, Deputy Ramiro Sanchez expressly maintained "there was no mental health crisis" that I was experiencing. Several E.M.S. paramedics and other first responders tried to engage in conversation with me. I sent

them away. Eventually, an Acadian Ambulance arrived with 2 occupants.

(15) These Ambulance drivers, a Hospital, and the Deputies conversed. I could observe portions of their interactions. It seemed the Hospital did not want to receive me under a mental health detention. This was reaffirmed through the Acadian Ambulance drivers. At this point, it became clear the Hospital and Ambulance drivers did not want to transport me under a mental health detention.

(16) However, Deputy Sanchez eventually directed the Acadian Ambulance drivers to transport me to University Hospital under an emergency mental health detention. I was forcefully removed from the Sheriff's Cruiser, restrained, tethered to a stretcher, and had some implement affixed to my head. Deputy Sanchez would not let me go, nor let Natalie take me home. I resembled the fictional character Hannibal Lecter, from the movie 'Silence of the Lambs.'

(17) My wife Natalie had driven across Bexar County, under the guise to pick me up. When Natalie arrived, the Deputies told her I "was under an emergency mental health detention." By the time the Acadian Ambulance left the site of the traffic stop, it had been 2 hours from the first contact with Deputy Sanchez.

(18) I was transported to University Hospital. I was examined and summarily released within the hour. The majority of the time was waiting for the discharge paperwork to process. The Doctors found no mental health crisis, no mental or emotional distress, and no physical danger to myself or to others.

(19) By nature, I am a passive person. I am not violent, nor do I condone violence. I am not prone to emotional mood swings either. I am a stable person. I have never been diagnosed with or treated for depression, anger management, or self-destructive conduct. In fact, I have to be level-headed in my work. I drive 18 wheel trucks and trailers. Thus, I have to maintain an impeccable personal and professional driving record. I cannot have any moving violations on my record. Consequently, I have a Hazardous Materials Certification. This means I routinely undergo psychological evaluation and drug testing as a requirement.

(20) I received an ambulance bill for \$2418.29. I also requested personal copies of my medical records from University Hospital, and examination on April 14, 2021.

(21) I have affixed a true and correct copy of the ambulance bill I received in the mail from Acadian Ambulance Company.

(22) I have affixed a true and correct copy of my (medical records/mental health evaluation) from University Hospital on April 14, 2021 pursuant to my personal HIPPA and Texas Medical Records Privacy Act request.

SUMMARY JUDGMENT AFFIDAVIT OF
NATALIE SMITH

ROA.24-50724.460-462

(1) My name is Natalie Smith. I am over the age of 18 and have personal knowledge of these matters. I make the following statements under oath.

(2) I am the wife of Plaintiff Ronald Smith. On April 14, 2021, we had lunch near Kirby, Texas. Afterwards, Ronald wanted to drive back to our home in Bulverde, Texas. The lunch was enjoyable. Ronald was not distressed, angry, nor depressed.

(3) Approximately 45 minutes after Ronald left me, I received a phone call from a person claiming to be a Bexar County Sheriff's Deputy. He identified himself as Deputy Sanchez. He asked me if my husband had mental conditions or was on medication. I answered in the negative. It was my understanding that Ronald and the Deputies had difficulties communicating because of his Dyslexia.

(4) Deputy Sanchez also asked who the owner was of the dark Toyota. I informed Sanchez it belonged to Ronald Smith, my husband. Sanchez asked if I could drive out to the site where he stopped my husband. I told him I would. It was my understanding the Deputies wanted me to pick up my husband and take him home. There was the new vehicle registration information, which was lying in the front seat. The document had much personal information belonging to Ronald. I know Ronald often kept his Driver's License in the auto console.

(5) It took me about 35 minutes to drive out to the site where Ronald was stopped. As soon as I got out and spoke with the Deputies, I was told my husband was under an ‘emergency mental detention.’

(6) My husband, Ronald Smith, has never had ‘mental health issues’ that I have observed in our marriage of 13 years. My husband has never had any mental health issues in the 17 years I have known him either. Ronald is not an angry or violent person, and he has never attempted to harm himself or others during our marriage. Ronald has not been under a Doctor’s care or medications for those issues. Ronald was not angry, anxious, violent, or distressed on April 14, 2021. Ronald had driven across Bexar County to have lunch with me, and it was enjoyable.

(7) I had the occasion to overhear the interactions between the Acadian Ambulance drivers, the Hospital, and the Deputies. I was standing right next to them. It appeared the Hospital did not want to receive Ronald under an emergency mental health detention. It also appeared that the Acadian Ambulance drivers were ordered to transport Ronald to the Hospital by the Deputies.

(8) Ronald was transported to University Hospital on April 14, 2021. Within 1 hour, the Hospital discharged Ronald on his own volition. I picked Ronald up from the Hospital.