

**Garden State CLE Presents:**

# **Arrest, Search & Seizure Fall Review - 2025**



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**Lesson Plan**

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# PART I SCOTUS

## Noam vs. Vasquez Perdomo, \_\_\_ U.S. \_\_\_ (2025) 2025 WL 2585637

The Immigration and Nationality Act authorizes immigration officers to “interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States. Immigration officers may briefly detain an individual for questioning if they have a reasonable suspicion, based on specific articulable facts, that the person being questioned is an alien illegally in the United States. The Government estimates that at least 15 million people are in the United States illegally. Many millions illegally entered (or illegally overstayed) just in the last few years.

Illegal immigration is especially pronounced in the Los Angeles area, among other locales in the United States. About 10 percent of the people in the Los Angeles region are illegally in the United States - meaning about 2 million illegal immigrants out of a total population of 20 million.

Not surprisingly given those extraordinary numbers, U. S. immigration officers have prioritized immigration enforcement in the Los Angeles area.

The Government sometimes makes brief investigative stops to check the immigration status of those who gather in locations where people are hired for day jobs; who work or appear to work in jobs such as construction, landscaping, agriculture, or car washes that often do not require paperwork and are therefore attractive to illegal immigrants; and who do not speak much if any English. If the officers learn that the individual they stopped is a U. S. citizen or otherwise lawfully in the United States, they promptly let the individual go. If the individual is illegally in the United States, the officers may arrest the individual and initiate the process for removal.

Here, those circumstances include: that there is an extremely high number and percentage of illegal immigrants in the Los Angeles area; that those individuals tend to gather in certain locations to seek daily work; that those individuals often work in certain kinds of jobs, such as day labor, landscaping, agriculture, and construction, that do not require paperwork and are therefore especially attractive to illegal immigrants; and that many of those illegally in the Los Angeles area come from Mexico or Central America and do not speak much English. To be clear, apparent ethnicity alone cannot furnish reasonable suspicion; under this Court's case law regarding immigration stops, however, it can be a relevant factor when considered along with other salient factors.

Under this Court's precedents, not to mention common sense, those circumstances taken together can constitute at least reasonable suspicion of illegal presence in the United States. Importantly, reasonable suspicion means only that immigration officers may briefly stop the individual and inquire about immigration status. If the person is a U. S. citizen or otherwise lawfully in the United States, that individual will be free to go after the brief encounter. Only if the person is illegally in the United States may the stop lead to further immigration proceedings.

### **Case vs. Montana**

**[Argued October 15, 2025 - Pending decision from the Court]**

### **Facts of the Case (From Oyez.org)**

In September 2021, Trevor Case's ex-girlfriend J.H. called police to report that Case had threatened suicide during their phone conversation. J.H. believed Case was intoxicated due to his erratic behavior, and she became alarmed when he mentioned getting "a note or something like that" before committing suicide. During the call, J.H. heard clicking sounds resembling a cocking pistol, prompting her to tell Case she would call police. Case responded by threatening to harm any officers who came to his home. The call ended when J.H. heard a "pop" that she believed was a gunshot, followed by dead air, though the line remained

connected. Unable to get Case to respond, J.H. contacted police and drove to his residence.

Law enforcement officers arrived at Case's home and attempted to make contact by knocking on doors and calling through an open window but received no response. Through the windows, officers observed empty beer cans, an empty handgun holster, and a notepad they believed contained a suicide note. The officers knew of Case's history of alcohol abuse, mental health issues and previous suicide threats, including an incident where he brought a weapon to the school where he taught. After approximately forty minutes on scene, officers made the decision to enter the home without a warrant to conduct a welfare check. They entered with weapons drawn due to J.H.'s report of Case's threats against officers. While clearing the home, Sergeant Pasha encountered Case in an upstairs bedroom closet. When Case suddenly opened the closet curtain, Pasha observed what he believed was a dark object at Case's waist and shot him in the abdomen. A handgun was subsequently found in a laundry hamper next to where Case fell.

Case was charged with Assault on a Peace Officer and filed pretrial motions to suppress evidence obtained from the warrantless entry. The district court denied the motion to suppress. Following a jury trial in December 2022, Case was convicted of the felony charge. Case appealed to the Montana Supreme Court, which affirmed.

### **Question Presented to the Court**

May law enforcement enter a home without a search warrant based on less than probable cause that an emergency is occurring?

### **Related Precedent from SCOTUS**

Brigham City vs. Stuart, 547 U.S. 398(2006) (Emergency aid)

## **Related New Jersey Law**

### **State vs. Edmonds, 211 N.J. 117, 131-32(2012) (Emergency Aid)**

[T]he United States Supreme Court has made clear that, in the emergency-aid context, the subjective motivation of a police officer is irrelevant in determining whether a search or seizure is unreasonable under the Fourth Amendment. Rather, the test is simply one of objective reasonableness—viewing the circumstances objectively, were the actions of the officer justified (“This ‘emergency aid exception’”) does not depend on the officers' subjective intent or the seriousness of any crime they are investigating when the emergency arises. It requires only ‘an objectively reasonable basis for believing,’ that ‘a person within [the house] is in need of immediate aid.’ Therefore, for a warrantless search to be justified by the emergency-aid doctrine, the State must prove only that (1) the officer had “an objectively reasonable basis to believe that an emergency requires that he provide immediate assistance to protect or preserve life, or to prevent serious injury” and (2) there was a “reasonable nexus between the emergency and the area or places to be searched.”

### **State vs. Vargas, 213 N.J. 301, 321(2013) - Community Caretaking**

Having examined the origins and rationale of the community-caretaking doctrine, and with a keen understanding of the historical protections afforded to the home, we decline the State's invitation to expand the doctrine in a way that was never conceived by the United States Supreme Court. Without the presence of consent or some species of exigent circumstances, the community-caretaking doctrine is not a basis for the warrantless entry into and search of a home.

## **PART II**

### **Appellate Division**

#### **State vs. Courtney, 478 N.J. Super 81(App.Div.2024)**

Impoundment under John's Law (N.J.S.A. 39:4-50-23) and subsequent vehicle searches. The police may conduct a roadside search of a motor vehicle stopped for drunk-driving under the automobile exception even though it will be towed away under John's Law.

#### **State vs. Fenimore, 261 N.J. 364(2025)**

Searches - When the car was parked in a State Police barracks parking lot; police had arrested the driver, removed the passenger, and obtained the keys; and the car was subject to imminent, mandatory impoundment, the automobile exception to the warrant requirement did not apply. The police were therefore required to obtain a warrant before searching the vehicle.

As an initial matter, there was no on-scene search here: the car was searched in a police barracks parking lot, not on the scene of a motor vehicle stop or any other incident. And the facts make clear there was no other inherent exigency to justify a warrant-less search under the automobile exception. Police were therefore required to obtain a warrant.

#### **Supporting Precedent**

- i) Probable cause searches – State vs. Witt, 223 N.J. 409(2015);  
State vs. Irelan, 375 N.J. Super 100(App.Div.2005)
- ii) John's Law Mandatory Impoundment – N.J.S.A. 39:4-50.23

iii) Inventory searches – When the owner or permissive user is present, inventory searches of lawfully impounded vehicles are not permitted unless the owner or permissive user has been given the option of either consenting to the inventory or making his own arrangements for the safekeeping of the property contained in the vehicle. State vs. Mangold, 82 N.J. 575, 587(1980).

**State vs. Ellison, 482 N.J.Super 357(App.Div.2025)**

This appeal raises a novel issue regarding whether an officer's observation of defendant's entry of his pass code into his cell phone violates defendant's right to privacy and Fifth Amendment right against self-incrimination. We hold that defendant had no reasonable expectation of privacy and there was no violation of defendant's Fifth Amendment right against self-incrimination where defendant voluntarily requested his cell phone, was not compelled to provide the pass code and voluntarily entered the pass code in the officer's presence.

While being processed in the police station, defendant requested his cell phone to retrieve some phone numbers. In his supplemental report, Detective Scott Weaver stated he handed defendant his cell phone and stood by as he entered his pass code. Detective Weaver explained that he retained the pass code in his memory and later wrote it down. He subsequently provided the pass code to the Morris County Prosecutor's Office High Tech Crimes Unit.

On March 3, 2021, a CDW was issued authorizing the search of thirty-two cell phones seized as a result of the first search warrant. The CDW included the cell phone seized from defendant's person, for which Detective Weaver observed defendant entering his pass code while in custody. Multiple narcotics-related text message conversations were found, some of which were identified and read to the jury by Detective Weaver.

Here, defendant was in custody and undergoing processing when he voluntarily requested his cell phone. It is also undisputed that defendant's cell phone was already in police custody, lawfully seized pursuant to a search warrant issued on February 16, 2021—the sufficiency of which defendant does not challenge on appeal. The contents of the phone were later accessed under a lawfully issued CDW on March 3, 2021. Importantly, defendant was not compelled to provide his pass code during the booking process.