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NEVADA CASES

Tabish v. State, 119 Nev. Adv. Op. 37 (July 14, 2003). “The failure to sever the Casey counts from the other charges and the admission of the hearsay statement without a limiting instruction unfairly prejudiced both appellants in their trial on the Binion and the silver counts. The errors were not harmless beyond a reasonable doubt. Neither of the errors, however, had the same severely prejudicial impact with regard to Tabish's conviction on the Casey counts, and in that respect, we conclude the errors were harmless beyond a reasonable doubt. Accordingly, we reverse appellants' convictions on the Binion and the silver counts and remand for a new trial on those matters alone. We affirm Tabish's conviction on the Casey counts.”

Clark County v. Sun State Properties, 119 Nev. Adv. Op. 36 (July 21, 2003). “In this appeal, we consider the proper procedure for determining just compensation in an eminent domain action when there are various interests involved in the condemned property. We hold that the eminent domain statutes codified the undivided-fee rule, which requires the court to first determine the value of the property as a whole, and in a subsequent hearing, to apportion the award among the various interests. Accordingly, we conclude that the district court erred when it first valued the various interests in order to determine the just compensation for the condemned property, and therefore, we

reverse and remand for a new trial.

We also consider whether a condemnee is entitled to damages for lost profits resulting from the condemnor's delay in not bringing the action to trial within two years from when the action was filed. We hold that the condemnee may recover damages for lost profits when the condemnee has demonstrated that the condemnor caused unreasonable delay in bringing the action to trial. Because the record does not indicate what caused the delay, we direct the district court, on remand, to revisit this issue.”

Jerry A. Lawson, *Blogs for Public Lawyers, The Public Lawyer (ABA Summer 2003)*. Just when we thought we knew everything we needed to know about the Internet, something new comes along. Web logs, sometimes called “blogs,” (or “blawgs” when they are legally oriented) are websites organized as chronological journals, usually produced by special software that makes them very easy to create and update. While conventional web publishing requires knowledge of HTML and graphics, you can have a blog up and running in five minutes, even if you're not a technical wizard. Once the blog is established, adding text is similar to using a word processor, then clicking a button that says “publish.” Blogs have been touted as a revolutionary new medium. They gained in popularity when they provided new perspectives after the September 11, 2001, terrorist attacks. “Warblogs” by both hawks and doves over the Iraq war gained new attention. Following Trent Lott's ouster as Senate Majority Leader, *The Wall Street*



Journal, the *New York Times*, and well-connected political insiders of both the conservative and liberal persuasions agreed on one thing: after mainstream reporters and editors initially failed to report on Lott's comments on segregation, it was blogs that kept the issue alive and turned it into something the mainstream media could no longer ignore. Because many web logs are of poor quality, their value as a tool for lawyers may not be readily apparent. However, there is more going on with blogs than is probably apparent to the casual observer. This article will explain four reasons why public lawyers should keep an eye on the blog phenomenon: legal and factual research, distribution of government information, improved knowledge management inside public legal offices, and their potential to fill in the gaps left by the typical web efforts produced by bureaucratic organizations. A New Source for Legal and Factual Research Because publishing a blog doesn't require as much time, expertise, or money as conventional websites, busy people with good ideas but limited technical facility or money to invest are using them as an efficient way to distribute information. Two examples that deal with federal law are:

Statutory Construction Zone

<http://www.statconblog.blogspot.com/>

Gary O'Conner, a lawyer with the Office of the General Counsel, U.S. Department of Veterans Affairs, provides case summaries and scholarly references on the topic of statutory construction.

How Appealing

<http://appellateblog.blogspot.com>

Howard J. Bashman, a private attorney with Buchanan Ingersoll, shares his views on appellate court cases and related news coverage. Expert-operated sites like these can be valuable resources.



Ethics & Lawyering Today -- Vol. 3, No. 6. Just down the road in Oregon, in an opinion that seems designed for a law school textbook, the Ninth Circuit found that a defense attorney did not provide ineffective assistance of counsel when he revealed to law enforcement authorities the location at which they found two of his client's murder victims. In *McClure v. Thompson*, 323 F.3d 1233 (9th Cir. April 2, 2003), over a very sharply worded dissent, the court affirmed the denial of a habeas petition where the petitioner's original defense attorney, Mecca, had his secretary place an anonymous telephone call to the sheriff's department and relay to them information Mecca had obtained from petitioner about the location of two missing children. Sheriff's deputies then quickly found the children's bodies (two of the client's murder victims) in locations many miles apart. There was disputed testimony about what Mecca and his client discussed, including whether the client authorized the



disclosure, and Mecca did have information from his client's sister making him think the children might be alive. But it was not disputed that Mecca never directly asked his client whether the children were alive or dead. The majority found that the client did consent, but without proper consultation. Yet the court found no ineffective assistance due to Mecca's reasonable belief that disclosure would prevent the children's death. The dissent would have found both a violation of confidentiality and the Sixth Amendment right to counsel.

<http://www.ethicsandlawyering.com/Issues/files/McClure.pdf>

NINTH CIRCUIT CASES

(Cases without hyperlinks can be found at <http://www.ca9.uscourts.gov/ca9/newopinions.nsf>)

United States v. Marshall, No. 01-56061 (July 23, 2003). The defendant in this case was entitled to the return of a parcel of forfeited real property but, because the government had sold the property, the monetary equivalent had to be restored to him instead. We are called on to decide what date should be used for the substitute valuation. We agree with the district court that the appropriate yardstick is the property's value when the government sold it and that, because on that date the debt attributable to the property exceeded the defendant's equity in it, the government owes no damages."

<http://caselaw.lp.findlaw.com/data2/circs/9th/0156061p.pdf>

Palmer v. Pioneer Inn Assocs., Ltd., No. 00-15397 (9th Cir. July 22, 2003). "This employment discrimination case, brought by Dena Palmer against a prospective employer, Pioneer Inn Associates, Ltd., involves the intersection of evidentiary and

ethical issues. It returns to us after the Nevada Supreme Court resolved our certified question regarding the scope of acceptable ex parte contacts between an attorney and an employee of a represented party."

<http://caselaw.lp.findlaw.com/data2/circs/9th/0015397p.pdf>

State Engineer v. South Fork Band of Te-Moak Tribe of Western Shoshone Indians of Nevada, No. 00-17146 (9th Cir. July 28, 2003). A follow-on to the Humboldt River dispute seeking to hold the Tribe in contempt in state court. A state court that has adjudicated a water decree retains exclusive jurisdiction under the doctrine of prior exclusive jurisdiction over the administration of the decree. Also, the 1952 McCarran Amendment applies retrospectively to the United States, including the over the adjudication or acquisition of Humboldt River rights predating the amendment by nearly two decades.

<http://caselaw.lp.findlaw.com/data2/circs/9th/0017146p.pdf>

Valley Outdoor, Inc. v. County of Riverside, No. 02-55475 (July 31, 2003). The panel affirmed the severance of a grandfather clause in the county's billboard ordinance and upheld the remainder: "Accordingly, we conclude that the appellants' billboards are illegal for one simple reason: they fail to meet the content-neutral zoning, size, and height restrictions in both the Original Ordinance and the New Ordinance. Insofar as the appellants' claim for damages based on the unconstitutionality of the Original Ordinance remains live, no damages are warranted because the subject billboards were 'independently' illegal under that ordinance's content-neutral zoning, size, and height provisions, which are the same as those in the New Ordinance."



Westlands Water Dist. V. United States, No. 01-16987 (9th Cir. July 31, 2003). “This action arises out of water allocations during water year 1994 in the San Luis Unit of the Central Valley Project, a federal water management project. Plaintiffs-appellants Westlands Water District and San Benito County Water District appeal the district court’s order granting summary judgment in favor of defendants and defendant-intervenors concerning the United States Department of the Interior Bureau of Reclamation’s allocation of Central Valley Project water during periods of shortage. Plaintiffs-appellants allege that granting priority to a group of contractors, intervenor-defendants San Joaquin River Exchange Contractors, violated contracts between the water districts and the United States. Plaintiffs-Appellants seek injunctive and declaratory relief to prohibit distribution of water in contravention of their contracts. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.”

Martinez v. City of Oxnard, No. 00-56520 (9th Cir. July 30, 2003). “We return to this case following remand from the United States Supreme Court. In 2001, we affirmed the district court’s grant of summary judgment denying qualified immunity to Sergeant Ben Chavez. *Martinez v. City of Oxnard*, 270 F.3d 852 (9th Cir. 2001). We entertained at that time only the interlocutory appeal from the district court’s denial of qualified immunity to Chavez. The Supreme Court reversed our holding Chavez was not entitled to qualified immunity because Martinez had a Fifth Amendment right against self-incrimination regardless of whether his statements were used against him in criminal proceedings, *Chavez v. Martinez*, 123 S. Ct. 1994, 2001, 2007 (2003); however, the Court left open the possibility that Chavez’s coercive

interrogation of Martinez violated his then clearly established due process rights under the Fourteenth Amendment. *Id.* at 2008. We hold that, if the facts as alleged are proven true, it did. Accordingly, Chavez is not entitled to qualified immunity on Martinez’s Fourteenth Amendment substantive due process claim.”

S.D. Myers, Inc. v. City & County of San Francisco, No. 02-16480 (9th Cir. July 29, 2003). “S.D. Myers, Inc. again challenges San Francisco’s Nondiscrimination in Contracts Ordinance, S.F. Admin. Code Ch. 12B, a measure that requires all city contractors to provide equal benefits to their employees, regardless of marital or domestic partner status. This is not the first time Myers has asked us to strike down the Ordinance. In *S.D. Myers, Inc. v. City & County of San Francisco*, 253 F.3d 461 (9th Cir. 2001), we upheld the Ordinance as consistent with state law, federal law, and the U.S. Constitution. We once again uphold the Ordinance, this time against a challenge of preemption by California Family Code §§ 297-299.6, a recently-enacted state statute that governs the creation and registration of domestic partnerships.”

Manatt v. Bank of America, N.A., No. 01-35847 (9th Cir. July 28, 2003). The panel held that hostile workplace and retaliation claims can be brought under § 1981. “We think the actions of Manatt’s co-workers generally fall into the ‘simple teasing’ and ‘offhand comments’ category of non-actionable discrimination. Manatt overheard jokes in which the phrase ‘China man’ was used. And she overheard a reference to China and communism. But on only a couple of occasions did Manatt’s co-workers or supervisor direct their racially insensitive ‘humor’ at Manatt. One such instance occurred when Barbara Green and



Vincent Correia ridiculed Manatt for mispronouncing ‘Lima.’ Another instance occurred when Green and Correia, upon seeing Manatt, pulled their eyes back with their fingers in an attempt to imitate or mock the appearance of Asians. Under our case law, this conduct was neither severe nor pervasive enough to alter the conditions of Manatt’s employment.”

Center for Fair Public Policy v. Maricopa County, No. 00-16858 (9th Cir. July 28, 2003). “We must decide whether a state statute prohibiting sexually-oriented businesses from operating during late night hours passes muster under the First Amendment.” “In short, we reject Fair Public Policy’s argument that we need to assess the regulation in light of how other classes of businesses are treated under Arizona law. The State may choose to treat adult businesses differently from other businesses so long as it does so for the right reasons, and it has done that here. It need do no more.”

Farrakhan v. Washington, No. 01-35032 (9th Cir. July 25, 2003). The panel reversed this Voting Rights Act challenge to the state’s felon disenfranchisement law, holding that the district court should have applied a totality of circumstances test instead of a by itself test: “Notably, the district court attributed the cause of this discriminatory effect on minority voting power to ‘discriminatory activity’ in Washington’s criminal justice system. Although it determined that ‘Plaintiffs’ evidence of discrimination in the criminal justice system, and the resulting disproportionate impact on minority voting power, is compelling,’ the district court held that evidence of discrimination in the criminal justice system was not significant for purposes of the ‘totality of the

circumstances’ analysis used in determining whether a challenged voting practice results in a denial of minority voting rights under Section 2. Instead, focusing on the disenfranchisement scheme itself, the court concluded that there was no evidence that the enactment of Washington’s disenfranchisement provision ‘was motivated by racial animus, or that its operation *by itself* has a discriminatory effect,’ and therefore determined that Plaintiffs had failed to establish a Section 2 violation.”

Dixon v. Wallowa County, No. 01-35709 (9th Cir. July 21, 2003). Dixon was renting a room in a house owned by an arrested rapist, which was searched after his arrest. Upon learning that Dixon was removing property from the house, the police and the district attorney declared the house a crime scene and seized it. The panel held that the officials had properly seized the house and were entitled to qualified immunity.

Center for Biological Diversity v. Badgely, No. 01-35829 (9th Cir. July 21, 2003). The panel upheld the decision of the U.S. Fish and Wild Service not to list the goshawk as a threatened or endangered species. “We hold that FWS’s determination was amply supported by evidence in the record. We decline to address the Center’s remaining arguments, which are without merit.:

Graves v. City of Couer D’Alene, No. 02-35119 (9th Cir. August 1, 2003). Although a police officer did not have probable cause to search a backpack in the midst of a volatile Aryan Nation parade, the officer was entitled to qualified immunity: “Given the volatile nature of the parade and the potential for grave injury that Dixon sought to interdict, we conclude that a reasonable officer in Dixon’s situation could have believed that



those circumstances carried enough weight to create probable cause when there was at least some individualized suspicion. We hold that Dixon is entitled to qualified immunity, because the law did not provide him clear guidance as to how much weight he could give the explosively hostile circumstances of the Nazi parade in making his probable cause assessment. In the extraordinary circumstances of this case, Dixon made a reasonable mistake.

U.S. WORKERS ARE MORE STRESSED, CYNICAL SINCE TERRORIST ATTACKS, By Karyn-Siobhan Robinson, Society for Human Resources
http://www.shrm.org/hrnews_published/articles/CMS_005131.asp

While U.S. workers report being more stressed and cynical since Sept. 11, 2001, most say they and their companies have done little to change the way they work or behave, according to a survey designed to gauge American attitudes.

Despite the emotional strains and fears felt by many workers following the events of Sept. 11, only 51 percent of the 750 workers polled by Harris Interactive said their management addressed their concerns. For example, 47 percent of respondents said their companies have not strengthened security procedures since the terrorist attacks, and one-third said their companies are inconsistent about strictly enforcing security procedures.

“We were shocked that almost half of the U.S. companies have not responded to the 9/11 attacks in any meaningful way,” said Frank Kenna III, president of North Haven, Conn.-based The Marlin Co., which commissioned the study. Most workers haven’t changed their behaviors either.

Fifty-five percent of respondents to the survey said their priorities haven’t changed. Further, 51 percent said their co-workers also haven’t changed their behavior in terms of being more understanding of each other and more team-oriented. In fact, 22 percent reported that people at their companies are more suspicious of foreign workers.

The survey, *Attitudes in the American Workplace VIII*, showed that other events besides Sept. 11 also are contributing to employees’ stress levels and cynicism. Recent corporate scandals have taken a toll, according to 12 percent of respondents, who reported that wrongdoing by major institutions such as Enron, Arthur Andersen and the Catholic Church had made them more cynical and less trusting of their own company’s management.

The recent scandals not only have rocked the stock market, but they’re starting to rock employees’ faith in their own companies’ credibility,” said Kenna. “Our economic recovery may have as much to do with ethics and credibility as anything. We have a situation here where corporations and individuals are reluctant to spend, and thereby get this recovery moving. It’s obvious that managers need to focus more on winning back their employees’ trust.”

Gossip also was noted as a major workplace stressor, with 69 percent of workers surveyed noting that it is common in their workplace. “Though many people consider gossip an amusing pastime, in reality it is a disruptive and damaging phenomenon,” said Kenna.

Indeed, 24 percent of the survey’s respondents said they’ve seen someone’s reputation unfairly damaged in their current workplace because of gossip or rumors.



Other findings:

- 30 percent said they believed they've been targeted by workplace gossip.
- 41 percent said they have engaged in gossip in their workplace in the last year.
- 31 percent said rudeness is a problem in their workplace.
- 30 percent said cliques are a problem.
- 33 percent said backstabbing is a problem.

“Most people engage in [gossip], but they don't realize its consequences,” said Kenna. “Add to this our findings on backstabbing, cliques and rudeness, and we see a huge opportunity for companies to reduce stress and interpersonal friction by addressing these issues.”

“Human resource professionals must be untiring in their efforts to enlighten managers and employees about the dangers of stress,” said Ed LaFreniere, vice president of editorial at Marlin. “Our survey shows that stress is getting worse, and is taking more and more of a physical and emotional toll on workers.

Stress management was on many survey respondents' minds in the past, LaFreniere said. Earlier surveys from Marlin show that significant percentages of workers believed their colleagues needed help managing stress. But the respondents also said they lacked the time to focus on managing their own stress.

“By default, that leaves the workplace as the only venue for enlightenment,” LaFreniere said. “Companies need to tell their employees how to alleviate stress. It's time to play hardball with this 'soft' issue, which can be tremendously expensive for any company, both in financial costs and morale.”



Summary of the Small Business Liability Relief and Brownfields Revitalization Act Public Law 107-118 (H.R. 2869)

International City/County Management Association—April, 2002

Public Law 107-118 (H.R. 2869), the Small Business Liability Relief and Brownfields Revitalization Act, helps finance the cleanup of brownfields and provides liability relief for small business owners. This new law is a boon for local governments and private developers alike for two important reasons: (1) it eases liability issues and (2) will help to finance the cleanup of contamination. The bill is an amendment to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The bill authorizes \$200 million a year, starting in FY2003, to states, local governments and Native American tribes for brownfields assessment and cleanup. It protects developers of brownfields in the case that additional contamination is found after development. Specifically, the Small Business Liability Relief and Brownfields Revitalization Act includes a number of provisions important to local governments, including: increased funding, increased flexibility, liability relief, and certainty.



Increased Funding

There is \$200 million in total funding authorized for assessment and cleanup of abandoned and underutilized sites. There will be up to \$200,000 available per site for assessment and up to \$1,000,000 per recipient for remediation, with the possibility of a waiver and a higher limit of \$350,000 for large or complex sites. Grants are awarded to:

- Parties that will help create or preserve parks, greenways, or recreational property under nonprofit control;
- Meet the needs of communities with low incomes or small populations;
- Facilitate reuse of existing infrastructure; or
- Establish or contribute to long-term revolving loan funds.

Grant recipients must contribute a 20 percent match in the form of money, labor, material, or services, unless EPA waives the requirement on the grounds that it would be a hardship for the organization.

Funding awarded under the legislation may be used to:

- Capitalize revolving loan funds;
- Remediate sites directly; or
- Pass through as grants to other entities that remediate sites directly.

In addition, local governments may use up to 10 percent of a grant to monitor population health effects or enforce institutional controls or to purchase environmental insurance to cover the cleanup. Grants may NOT be used to:

- Pay penalties or fines;
- Meet federal cost-sharing requirements;
- Pay administrative costs;
- Pay response costs at sites with potential liability under CERCLA § 107; or
- Pay costs of complying with federal laws not applicable to the cleanup.

Increased Flexibility

The bill authorizes the U.S. Environmental Protection Agency (EPA) to provide localities with direct grants for brownfields cleanup for the first time. Previously, many local governments were able to find assessment grants, but had difficulty finding funds for actual cleanup if they found the site to be contaminated. The legislation provides greater flexibility in the administration of EPA's revolving loan funds and up to 10 percent of funding can be used for environmental insurance or enforcement of institutional controls. Additionally, for the \$200 million that Congress can authorize, \$50 million a year (or 25 percent of funds appropriated) will be available for the cleanup of petroleum contamination, which had formerly been excluded from brownfields laws.

Liability Relief

The act provides liability protection to:

- Owners or operators of residential properties;
- Small businesses or non-profits with less than 100 paid employees; and
- Facilities that generate small amounts of contamination on the site (less than 200 pounds of solid material or 110 pounds of liquid material).

The act also protects contiguous property owners, prospective purchasers, and innocent landowners. Finally, small businesses that are potentially responsible parties, may have their settlement amount reduced or alternative payment methods considered, based on their abilities to pay.

Certainty

The act provides additional assurances that the federal government will not later override brownfields cleanup decisions under state programs. It bars federal

Superfund enforcement action for sites in state cleanup programs but provides for a federal role if:

- Requested by a state;
- There is interstate contamination;
- There is imminent and substantial endangerment to public health or the environment; or
- New information shows that the cleanup is no longer protective.

Sites not included in this new legislation include facilities subject to planned or ongoing CERCLA removal or enforcement actions under the following laws and measures:

- National Priorities Listing (NPL);
- CERCLA;
- Solid Waste Disposal Act;
- Federal Water Pollution Control Act;
- Toxic Substances Control Act (TSCA);
- Safe Drinking Water Act;
- Facilities where there has been a release of polychlorinated biphenyls (PCBs); or
- Facilities receiving federal funding for Leaking Underground Storage Tanks.

Life on the Road, by Joe Brancatelli **EXECUTIVE SUMMARY: Why the Middle Seat Is Almost Always Full**

Wondering why you almost never find an empty middle seat in coach? Easily explained. Last month, the U.S. airline industry flew 12 percent fewer flights and 13 percent fewer seats than in June, 2000. So despite the sharp drop in travel since 9/11, there's a scramble for the remaining seats that the airlines are flying. The result? Soaring load factors at even the most troubled major carriers. United, for example, filled 82 percent of the seats it flew in June. Not far behind were Northwest (81.8 percent), America West (81.6 percent), Continental (81 percent), Delta (80.5 percent), American (78.8 percent) and US

Airways (78.6 percent). The situation at the major discounters is just as tight. At Southwest, which hasn't cut flights or seats since 9/11, the load factor was 74.6 percent in June. Just a few years ago, Southwest's load factor was in the low 60s. And fast-growing JetBlue Airways actually led the industry, filling an astonishing 87 percent of its seats last month, even though it flew 60 percent more capacity than it did in June, 2001.



OTHER CASES

Pruitt v. Mcadory, No. 02-4100 (7th Cir. July 25, 2003). Prosecution did not engage in impermissible gender discrimination in violation of the Fourteenth Amendment by striking only males from the jury venire, and petitioner was not denied a fair trial when the prosecution withheld information about a chief witness.

<http://caselaw.lp.findlaw.com/data2/circs/7th/024100p.pdf>

Holcomb v. Lykens, No. 02-7838 (2d Cir. July 23, 2003). "Defendants' failure to follow the Vermont Department of



Corrections' written procedures when revoking plaintiff's extended furlough from prison did not violate plaintiff's right to procedural due process under the Fourteenth Amendment of the US Constitution."

<http://caselaw.lp.findlaw.com/data2/circs/2nd/027838p.pdf>

Goldmeier v. Allstate Ins. Co., No. 01-3888 (6th Cir. July 24, 2003). "Plaintiffs Terry C. and David A. Goldmeier appeal the district court's grant of summary judgment to defendant Allstate Insurance Company, their former employer, in their action for religious discrimination, in violation of both federal and Ohio state law. The Goldmeiers, husband and wife, are Sabbath-observant Orthodox Jews. They had resigned their positions as insurance agents with Allstate after the company announced plans to require offices to remain open on Friday evenings and Saturday mornings. Because they had not suffered discipline or discharge over this conflict, but instead resigned prior to the effectiveness of the new policy, the United States District Court for the Southern District of Ohio dismissed their complaints for failure to make a prima facie case. We affirm."

<http://laws.lp.findlaw.com/6th/03a0246p.html>

Wilson v. Kittoe, No. 02-7880 (4th Cir. July 22, 2003). Attorney plaintiff's offer of legal services to a neighbor who was being arrested outside his house for DUI did not provide the police officer with probable cause to arrest the plaintiff for obstruction. The Officer was not entitled to qualified immunity in an action alleging a Fourth Amendment violation.

<http://laws.lp.findlaw.com/4th/027880.html>

United States v. Jarrett, No. 02-4953 (4th Cir. July 29, 2003). The Fourth Amendment suppression of child pornography evidence obtained for the government by an

anonymous hacker is reversed, where the hacker did not act as a government agent because the government did not know of, or in any way participate in, the hacker's search of defendant's computer.

<http://laws.lp.findlaw.com/4th/024953p.html>

Nom v. Spencer, No. 02-2173 (1st Cir. July 29, 2003). Habeas challenge to the propriety of a question asked by a police officer after the petitioner had unambiguously invoked his Fifth Amendment right to counsel is denied where petitioner clearly invoked his right to an attorney only for purposes of objecting to a gunshot residue test.

<http://laws.lp.findlaw.com/1st/022173.html>

United States v. Flowers, No. 02-5149 (10th Cir. July 22, 2003). Arrest and subsequent search of defendant's home were invalid absent exigent circumstances, where only defendant's hand and arm were visible and he used a hole in the wall so that he would not have to open his door, and neither he nor the interior of his house would be open to public view.

<http://laws.lp.findlaw.com/10th/025149.html>

Pascoag Reservoir & Dam, LLC v. Rhode Island, Nos. 02-2179 (1st Cir. July 28, 2003). Rhode Island obtained a prescriptive easement for recreational use in the reservoir by adverse possession in 1975. The court held the company had lost its federal takings claim: "We agree with the district court that Pascoag failed to state a viable claim. Because Pascoag failed to timely pursue its state remedies, it forfeited its federal claim. Following the 'fundamental rule of judicial restraint,' we do not reach the constitutional question of whether compensation is due when the state acquires land by adverse possession or prescription."

<http://laws.lp.findlaw.com/1st/022179.html>

United States v. Stewart, No. 02-1938 (1st



Cir. July 29, 2003). Whether or not suppression ever would be an available remedy for a Fourth Amendment violation when an affidavit is otherwise adequate, it is unwarranted here because the strength of the probable cause showing remains unusually high even after consideration of the omitted negative material concerning the informants. <http://laws.lp.findlaw.com/1st/021938.html>

Nunez v. Simms, No. 02-50625 (5th Cir. July 30, 2003). Because a teacher had no property interest in continued employment after her teaching certification lapsed, the clearly established constitutional right of due process is not implicated. <http://caselaw.lp.findlaw.com/data2/circs/5th/0250625cv0p.pdf>

Toms v. Taft, No. 01-4035 (J6th Cir. July 31, 2003). Case law fails to show that an inmate's right to marry was so clearly established that a state official reasonably would believe that declining to assist an inmate in obtaining a marriage license is unconstitutional, thus state officials are entitled to qualified immunity in a 42 U.S.C. section 1983 action. <http://laws.lp.findlaw.com/6th/03a0263p.html>

Richmond v. Clinton County, No. 02-3497 (8th Cir. August 1, 2003). Plaintiff's claims, that county regulation of his septic system violated his Fourteenth Amendment equal protection rights and amounted to fraud and inverse condemnation, were time barred by Iowa's two-year statute of limitations. <http://caselaw.lp.findlaw.com/data2/circs/8th/023497p.pdf>

Manders v. Lee, No. 01-13606 (11th Cir. July 28, 2003). In this section 1983 excessive force case against a sheriff in his official capacity, the sheriff functions as an "arm of the State" in establishing use-of-force policy at the jail and in training and disciplining his deputies in that regard, and is entitled to

Eleventh Amendment immunity for these particular functions.

<http://caselaw.lp.findlaw.com/data2/circs/11th/0113606pv3.pdf>

Peculate (Verb)

Pronunciation: ['pe-kyu-leyt]

Definition 1: Embezzle, pilfer from public or private trust.

Hoyden (Noun)

Pronunciation: ['hoy-dn]

Definition 1: High-spirited, loud girl; a rude cut-up of a girl or woman
www.dictionary.com

From:



Source: [Boycott-RIAA](#)

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