

# Supreme Court Updates 2011

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**MICHIGAN V. BRYANT, 131 S.CT. 1143**

Decided Feb. 28

**ISSUE:** Is a statement by a wounded citizen concerning the identity of the perpetrator and circumstances of the shooting testimonial?

**HOLDING:** No. The Court reviewed the history of the Confrontation Clause and how it led up to the reversal of Ohio v. Roberts, 448 U.S. 56 (1965) by Crawford v. Washington, 541 U.S. 36 (2003). Davis v. Washington and Hammon v. Indiana, 547 U.S. 813 (2006) took further steps to “determine more precisely which police interrogations produce testimony.” The court had to consider this case differently than domestic violence situations, where generally the suspect is known and often present. This case, involving a citizen fatally

wounded by an armed suspect who left the scene, required the Court to “confront for the first time,” when a potential threat extended beyond the initial victim to “the responding police and the public at large.”

The Court concluded that Covington’s statements to officers made at the scene were not testimonial hearsay, and that the Confrontation Clause did not bar their admission at trial. The Michigan Supreme Court decision was vacated and the matter remanded for further proceedings.

FOR FULL TEXT OF OPINION:

Scan QR code or go to

<http://www.supremecourt.gov/opinions/10pdf/09-150.pdf>



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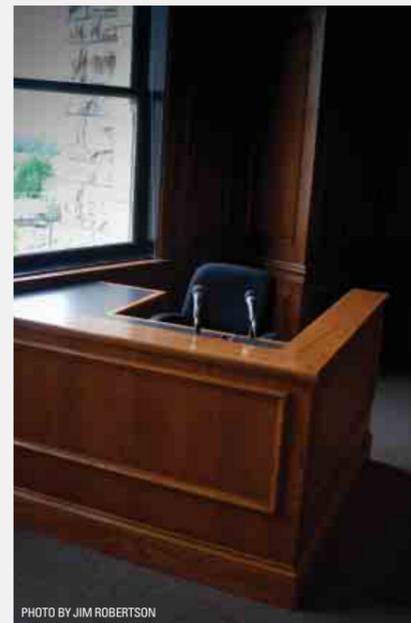


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**KENTUCKY V. KING, 131 S.CT. 1849**

Decided May 16

**ISSUE:** Does lawful police action impermissibly create exigent circumstances which precludes warrantless entry?

**HOLDING:** No. The Court recognized that the presumption for a search warrant under the Fourth Amendment “may be overcome in some circumstances” and that the “warrant requirement is subject to certain reasonable exceptions.” The exigent circumstances exception has been “well-recognized” when the “exigencies of the situation make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable under the Fourth Amendment.” The Court detailed the various situations that justified such searches and noted that “what is relevant here is the need ‘to prevent the imminent destruction of evidence,’ which has long been recognized as sufficient justification for a warrantless search.”

However, “lower courts have developed an exception to the exigent circumstances rule, the so-called ‘police-created exigency’ doctrine.” In such situations, “police may not rely on the need to prevent destruction of evidence when that exigency was ‘created’ or ‘manufactured’ by the conduct of the police, but agreed that, “in some sense, the police always create the exigent circumstances.”

The Court held that the exigency justified the warrantless search of the apartment, reversed the decision of the Kentucky Supreme Court and remanded the case for further proceedings.

FOR FULL TEXT OF OPINION:

Scan QR code or go to

<http://www.supremecourt.gov/opinions/10pdf/09-1272.pdf>



**DAVIS V. U.S., 131 S.CT. 2419**

Decided June 16

**ISSUE:** Does the Exclusionary Rule apply to vehicle searches performed before Arizona v. Gant was decided?

**HOLDING:** No. The Court noted that the purpose of the Exclusionary Rule

was to “deter police misconduct.” In this situation, the subject was arrested, and a search was done of the passenger compartment of the vehicle, pursuant to the provisions of New York v. Belton, 453 U.S. 454 (1981). However, following his conviction, Belton was modified by

Arizona v. Gant, 129 S.Ct. 1710 (2009). The Court concluded that there was no purpose in reversing a conviction because the arresting officers performed a search that was lawful at the time.

The Court affirmed Davis’s conviction.

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<http://www.supremecourt.gov/opinions/10pdf/09-11328.pdf>



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hurtful and its contribution to public discourse may be negligible. But Westboro addressed matters of public import on public property, in a peaceful manner, in full compliance with the guidance of local officials. The speech was indeed planned to coincide with Matthew Snyder’s funeral, but did not itself disrupt that funeral, and Westboro’s choice to conduct its picketing at that time and place did not alter the nature of its speech.

Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and — as it did here — inflict great pain. On the facts before us, we cannot react to that pain by punishing the speaker. As a nation we have chosen a different course — to protect even hurtful speech on public issues to ensure that we do not stifle public debate. That choice requires that we shield Westboro from tort liability for its picketing in this case.

The decision of the U.S. Court of Appeals for the Fourth Circuit was affirmed, dismissing the action.

>> **SYKES V. U.S., 131 S.C.T. 2267**

*Decided June 9*  
**ISSUE:** May a conviction for a vehicle flight from law enforcement be considered a violent felony under federal law?  
**HOLDING:** Yes. The Court looked to “whether the elements of the offense are of the type that would justify” using it to enhance the offense, “without inquiring into the specific conduct of the particular offender.” Under 18 U.S.C. §924(e)(2)(B), an offense is a violent felony if it both has, as an element, “the use, attempted use, or threatened use of physical force against the person of another,” or it “is burglary, arson, or extortion; involves use of explosives; or otherwise involves conduct that presents a serious potential risk of physical injury to another.” The Court agreed that the crime did meet the last requirement, as flight presents such a serious risk.

The Court agreed that Indiana’s vehicle flight law was appropriately used as a violent felony to enhance Syke’s federal sentence.

**NOTE:** *Kentucky has a statute that is very similar, in effect, to the Indiana law in question — KRS 520.095, first-degree fleeing or evading police. Under the court’s analysis, a conviction for this offense could also be applied to a federal sentence under similar circumstances. For that reason, peace officers should be cautious about allowing this charge to be dismissed or reduced in plea bargaining, as it can only be used as an enhancement if the subject is, in fact, convicted of the offense.*

FOR FULL TEXT OF OPINION:

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**BULLCOMING V. NEW MEXICO, 131 S.C.T.**

*Decided June 23*  
**ISSUE:** Is a blood test report (done by a crime lab) testimonial?  
**HOLDING:** Yes. The Court agreed that an analysis (and the report that follows) done by a crime laboratory is testimonial. Thus,

it was a violation of the Confrontation Clause and *Crawford v. Washington*, 541 U.S. 36 (2004) to admit the report without the presence of the actual lab technician who performed the test. Bullcoming’s conviction was reversed and the case remanded.



FOR FULL TEXT OF OPINION:  
 Scan QR code or go to <http://www.supremecourt.gov/opinions/10pdf/09-10876.pdf>

**STAUB V. PROCTOR HOSPITAL, 131 S.C.T. 1186**

*Decided March 1*  
**ISSUE:** May an employer be held liable when adverse decisions under the Uniformed Services Employment and Re-employment Rights Act are made by a supervisor without prejudice, if based upon recommendations of supervisors found to have prejudice?  
**HOLDING:** Yes. The Court noted that “when the company official who makes the decision to take an adverse employment action is personally acting out of hostility to the employee’s membership in or obligation to a uniformed service, a motivating factor obviously exists.” However, as in this case, confusion occurs when “that official has no discriminatory animus but is influenced by previous company action that is the product of a like animus in someone else.”

The Court concluded that “if a supervisor performs an act motivated by antimilitary animus that is intended by the supervisor to cause an adverse employment action, and if that act is a proximate cause of the ultimate employment action, then the employer is liable under USERRA.” The decision of the 7th Circuit Court of Appeals was reversed. J

FOR FULL TEXT OF OPINION:

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**JDB V. NORTH CAROLINA, 131 S.C.T. 2394**

*Decided June 16*  
**ISSUE:** Is a child’s age a factor in the custody analysis required under *Miranda v. Arizona*?  
**HOLDING:** Yes. The Court agreed that “whether a subject is ‘in custody’ is an objective inquiry” — but disagreed that a child’s age has no place in that inquiry.

The Court emphasized that children will not respond in the same way as adults to such questioning and it would be legally unfair not to take that into consideration. The Court found it reasonable to expect law enforcement officers to be able to recognize when a specific child might be too young to understand that they could refuse to answer questions, although the Court declined to set a specific age in its opinion.

The Court returned the case to the lower court for further proceedings based upon its opinion.  
**NOTE:** *This case specifically does not address whether removing a child to another room within a school satisfies the custody prong of Miranda. Instead, it focused only on whether the age of a child was a consideration in determining the voluntariness of a statement. Law enforcement officers are strongly advised to discuss the issue with local prosecutors as to whether a child being questioned at the school would trigger Miranda.*



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