

By Richard Rosenstock

HIGHLIGHTS

The 2003 supplement to *Rosenstock's §1983 Civil Rights Digest* adds 107 new cases.

QUALIFIED IMMUNITY

Hope v. Pelzer, 122 S.Ct. 2508 (2002)

Officials may still be on notice that their conduct violates established law evening novel factual circumstances, prior cases need not be “fundamentally similar” or even “materially similar” so long as prior cases gave fair notice that the conduct at issue violated constitutional rights.

SEARCH AND SEIZURE

Kaupp v. Texas, 123 S.Ct. 1843 (2003)

The police may not lawfully seek to verify mere suspicion by means that approach the condition of an arrest and involuntary transportation of a suspect to a police station for questioning is sufficiently like an arrest to require probable cause.

Estep v. Dallas County, Texas, 310 F.3d 753 (5th Cir. 2002)

Police officers may not reasonably use the fact that plaintiff had an NRA bumper sticker on his car in his calculation of “reasonable suspicion” to conduct a *Terry* pat down; such an inference has disturbing First and Fourth Amendment implications.

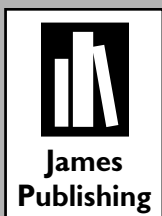
Roska v. Peterson, 328 F.3d 1230 (10th Cir. 2003)

Requirement of the Fourth Amendment are fully applicable to the conduct of social workers who seek to enter a home.

EQUAL PROTECTION

Farm Labor Organizing Committee v. Ohio State Highway, 308 F.3d 523 (6th Cir. 2002)

The equal protection clause provides a degree of protection independent of the Fourth Amendment and if a plaintiff can show he or she was subjected to unequal treatment based upon race during an otherwise lawful traffic stop, that would be sufficient to demonstrate a Fourteenth Amendment violation.



FIRST AMENDMENT/RETALIATION

Coszalter v. City of Salem, 320 F.3d 968 (9th Cir. 2003)

The precise nature of alleged retaliatory conduct is not critical to the First Amendment analysis as the goal is to prevent or redress actions by a governmental employer that chill the exercise of protected rights and, depending on the circumstances, even minor acts of retaliation may infringe on an employee's First Amendment rights.

DAMAGES

Bogle v. McClure, 332 F.3d 1347 (11th Cir. 2003)

Awards of \$500,000 in compensatory damages and approximately \$14,000,000 in punitive damages upheld in favor of seven librarians who were transferred for racially discriminatory reasons where they suffered no economic loss and presented no evidence of damages other than their own testimony.

FIFTH AMENDMENT - SUBSTANTIVE DUE PROCESS

§1983 does not provide a remedy for the violation of a citizens Fifth Amendment right against self-incrimination resulting from a coercive interrogation; however, where the circumstances surrounding the interrogation shock the conscience, a coercive interrogation may violate clearly established due process rights under the Fourteenth Amendment. *Chavez v. Martinez*, 123 S.Ct. 1994 (2003)

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Revision Editor
James Publishing, Inc.
3505 Cadillac Avenue, Suite H
Costa Mesa, California 92626

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