No Suspicion, No Strip Search: Eleventh Circuit Bars Suspicionless Searches of Prison Visitors and Rejects Qualified Immunity

Description

The Eleventh Circuit held that prison officials generally may not conduct strip searches of civilian visitors without reasonable suspicion that the visitor is concealing contraband. The court also held that qualified immunity did not protect the officers because the constitutional violation was sufficiently clear that a reasonable officer would have understood the conduct was unlawful.

Summary of the Facts

In February 2017, Clarissa Gilmore visited Smith State Prison in Georgia to see her then-husband. She passed routine visitor screening. A posted sign stated visitors consented to “a search of their person and property at any time,” including X-ray devices, metal detectors, body scanners, and pat-down searches. There were no signs warning about strip searches.

During the visit, Ms. Gilmore noticed Lieutenant Milton staring at her and stared back for about a minute or two. Lieutenant Milton spoke to other officers, left the visitation room, returned with Officer Christina Irizarry, and directed Ms. Gilmore to come with her. The officers presented a blank strip-search consent form with no documented justification. The form also lacked required approval signatures. The officers refused to tell Ms. Gilmore why she was being strip searched.

Ms. Gilmore initially refused to sign. Lieutenant Milton threatened that refusal would result in her going to jail, being strip searched anyway, and losing visitation privileges. Ms. Gilmore was not given the option to end the visit and leave to avoid the search.

The officers took Ms. Gilmore into a private bathroom and ordered her to remove all clothing, including undergarments. Wearing gloves, Officer Irizarry physically touched Ms. Gilmore’s chest and beneath her breasts, then directed her to turn around and bend over. Officer Irizarry patted down her buttocks and performed a visual body-cavity inspection of her genital area. The search lasted about 10–15 minutes. No contraband was found, and Officer Irizarry apologized.

Afterward, Ms. Gilmore asked prison officials why she was searched. A deputy warden later admitted that video footage did not show behavior that would have justified a strip search. At trial, another officer testified she smelled marijuana on Ms. Gilmore and found it suspicious that Ms. Gilmore was staring at her and Lieutenant Milton. But contemporaneous witness statements from the day of the search did not document any marijuana odor or other reasonable suspicion, and records suggested the claimed approving official was not on duty.

Ms. Gilmore sued under the Fourth Amendment. The district court granted qualified immunity, concluding the law was not clearly established at the time. A panel initially affirmed, then the Eleventh Circuit reheard the case en banc and vacated the panel decision.

The Eleventh Circuit’s Ruling

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The Eleventh Circuit reversed and remanded, holding the strip search was unreasonable under the Fourth Amendment and the officers were not entitled to qualified immunity.

1. Reasonable Suspicion Required for a Visitor Strip Search

Because strip searches are physically intrusive and highly humiliating, the court applied a heightened standard and held that prison officials must have reasonable suspicion that a civilian visitor is concealing contraband before ordering a strip search. The court emphasized that the degree of suspicion required depends on the intrusiveness of the search.

2. No Reasonable Suspicion on These Facts

The court found the officers lacked reasonable suspicion. Ms. Gilmore had already cleared multiple layers of screening. The “staring” conduct was not suspicious in context, and the later marijuana-odor testimony was inconsistent with the absence of any such claim in same-day documentation. The lack of required approvals and signatures further undermined any claim that the search was based on specific, articulable facts rather than arbitrary decision-making.

3. Consent Was Coerced

The court concluded Ms. Gilmore’s “consent” was not voluntary. Threats of jail, a forced strip search anyway, and loss of visitation privileges amounted to coercion. The inability to leave and avoid the search further supported that the consent was not freely given.

4. Qualified Immunity Denied Due to Obvious Unconstitutionality

Even when courts debate whether a rule was “clearly established” by a closely similar prior case, qualified immunity does not protect conduct that is unconstitutional with “obvious clarity.” The Eleventh Circuit held that this search met that standard. Given the absence of reasonable suspicion, the coercive tactics, and the extreme intrusiveness of the search, a reasonable officer would have understood the conduct violated the Fourth Amendment. Therefore, qualified immunity did not apply, and Ms. Gilmore’s claims could proceed.

Key Takeaways

- **Strip searches of prison visitors require reasonable suspicion** based on specific, articulable facts.
- **The more invasive the search, the higher the scrutiny.** Physical touching and visual body-cavity inspections demand strong justification and proper approvals.
- **Coerced consent is not consent.** Threats, detention pressure, and denying an option to leave can invalidate consent.
- **Qualified immunity does not protect obvious violations.** Even without a perfect case match, conduct that is plainly unconstitutional can defeat immunity.

Gilmore v. Georgia Dept. of Corrections, **No. 23-10343 (11th Cir. 2025)**

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