

Administrative Agencies

GEORGIANA BATTISONNICOL

GABRIELA CORONADO

ANA LOPEZ



#1 - This episode involves issues of qualified immunity for EPA inspectors who took wastewater samples.

Defense of qualified immunity protects "government officials from liability for civil damages in so far as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

#2 - The plaintiffs allege that the agents' sampling, without warrant or consent, of wastewater from underneath a manhole located on Riverdale land in Northbridge, Massachusetts, on the afternoon of October 21, 1997, constituted a violation of the Fourth Amendment. The Fourth Amendment claim is pursuant to [*Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 \(1971\)](#)

Riverdale Mills Corp. claim that the officials took samples of wastewater from manhole located on private property, on October 21, 1997 which violated their Fourth Amendment rights *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*

#3 - Pimpare and Granz defended, inter alia, on grounds of qualified immunity; the district court denied their motion for summary judgment on grounds of qualified immunity, and they properly filed an interlocutory appeal. We reverse because, under the first prong of the qualified immunity test, Knott and Riverdale have no reasonable expectation of privacy in this wastewater under the circumstances shown in the record and therefore they have no Fourth Amendment right. Even were this ruling incorrect, we would reverse under the second prong, since the existence of such a reasonable expectation was not clearly established law. We remand for entry of judgment for Pimpare and Granz on qualified immunity grounds

Defendants stated among other things based on qualified immunity should have dismissed the motion for summary judgment but it was denied by District Court, therefore they properly filed an interlocutory appeal [a ruling by a trial that is made before all claims are resolved as to all parties. Under the first prong [an essential element of a claim, or a defense] of qualified immunity the court reversed on the grounds that plaintiffs should have not had high expectations of privacy in this wastewater from manhole 1 with regards to the records presented, and so there was no violation of constitutional rights. The court stated that it would have reversed the ruling under the second prong test even if it would have been incorrect under the first prong, therefore the court remanded for entry judgement in the defendants' favor on grounds of qualified immunity.

4 - The two inspectors did not obtain a search warrant, and there# is no claim of exigent circumstances. Inspector Pimpare first met with Knott and two high-level employees; Inspector Granz [58*58](#) arrived sometime during that opening meeting. At that meeting, Pimpare did not assert any statutory authority to search Riverdale property but instead asked Knott to give his consent to an inspection of the wastewater treatment facility, including tests of the wastewater.

Pimpare and Granz failed to get a search warrant, because there was no urgent need for the search. Pimpare, Knott, and two high-level employees met, but at the meeting Pimpare did not emphasize a legal authority to search Riverdale property instead asked Knott for his permission to examine the wastewater treatment facility including testing the wastewater.

5 - Riverdale and Knott were indicted by a grand jury on August 12, 1998, based on evidence found in these searches, for two counts of violating the Clean Water Act, 33 U.S.C. § 1251 by discharging industrial waste into publicly owned treatment works in violation of a national pretreatment standard for pH levels. Knott and Riverdale moved to suppress evidence obtained during the October 21, 1997 and November 7, 1997 searches. The district court granted the motion in part: it determined that the afternoon sampling on October 21 had exceeded the scope of Knott's consent because neither Knott nor a designated Riverdale employee had been present. It thus suppressed the fruits of those afternoon searches but declined to suppress any evidence obtained on November 7. [Knott, 256 F.3d at 25](#). The government sought leave of court to dismiss the indictment without prejudice on April 23, 1999, and such leave was granted on May 6, 1999. *Id.*

Riverdale and Knott were formally accused of two counts by a grand jury on August 12, 1998, after corroborating that the findings in the searches did 1. violate the Clean Water Act, 33 U.S.C. § 1251, by disposal of industrial residual materials into publicly owned systems to prevent the disposing of municipal waste, and 2. violation of a national systems model for pH levels. Knott and Riverdale filed for exclusion of evidence found on the 10/21/1997 and 11/07/1997 searches. The request for exclusion was granted in part: Court concluded that the 10/21 sampling surpassed an area of Mr. Knott's consent due to the fact that he or a Riverdale employee was not present. This way evidence 10/21 was excluded but not the findings from 11/7. The government's motion on April 23, 1999 to seek permission to dismiss the charges without prejudice was granted on May 6, 1999.

#6 law would not have put an officer on notice that producers of industrial wastewater located underneath a manhole - Even if Riverdale had a reasonable expectation of privacy in its wastewater at Manhole 1, prior on a private street but headed for a public sewer 300 feet away enjoyed a reasonable expectation of privacy in the wastewater. The officers are entitled to immunity on the second prong of the qualified immunity analysis as well.

Yet when Riverdale fairly expected Privacy in its Manhole 1, an official would not have been notified that the makers of industrial residual materials placed underneath a manhole on an exclusive street but led to a public sewer 300 ft. away did enjoy a fair expectation of privacy in the wastewater. The officials were also designated immunity on the second prong of the qualified immunity investigation.

7 - The Supreme Court has made it quite clear that the second inquiry is a specific one; it is necessary to look at the particular factual context. See *Brosseau*, 125 S.Ct. at 599-600; [Hope](#), 536 U.S. at 739-41, 122 S.Ct. 2508; [Saucier](#), 533 U.S. at 201-02, 207-09, 121 S.Ct. 2151 (The question under the second prong on the facts of the case was "whether [the] general prohibition against excessive force was the source for clearly established law that was contravened in the circumstances [the] officer faced.");

The Supreme Court has made free from ambiguity that there is no general ruling over the second investigation if Riverdale's Fourth Amendment rights were violated, you can only rule that there was excessive force depending on the facts presented by the officer.

#8 - Pimpare and Granz do not argue that Riverdale is a "pervasively regulated business" that can be searched for this purpose without a warrant. See [New York v. Burger, 482 U.S. 691, 699-703, 107 S.Ct. 2636, 96 L.Ed.2d 601 \(1987\)](#) (discussing the exception to the warrant requirement for inspection of commercial premises in "closely regulated" industries). We do not address this issue. Nonetheless, the commercial context is relevant to the reasonableness of any expectation of privacy

Pimpare and Granz do not argue against Riverdale that they are a regulated business that can be searched without a warrant. New York v. Burger discuss exemptions to the warrant requirement, however in terms of a commercial industry that is closely regulated. Although not completely compliant it does address the reasonable expectation of privacy.

#9 - Explain who won and provide conclusion

Pimpare and Granz qualified immunity was granted and they were given the case in their favor. Due to the original tip by a Riverdale employee, under reasonable suspicion they are allowed to inspect a regulated business even on their private street especially due to their manhole being 300 feet away from the public sewer system

Thank you all for your attention..