



Written by [Bob Adelman](#) on August 13, 2024

Appeals Court: Possession of Legally Owned Firearm Does Not Permit Warrantless Search

A Connecticut police officer so greatly offended and violated the Fourth Amendment-protected rights of an innocent gun owner that all three liberal judges of the Second Circuit Court of Appeals [unanimously agreed on Monday](#) with the plaintiff: His Fourth Amendment-protected right to be free from unreasonable searches and seizures had been grievously violated.

The court's decision affirms that a citizen exercising his Second Amendment-protected rights to keep and bear arms in his vehicle does not expose him to the risk of an officer of the law violating his Fourth Amendment-protected rights to be free from unreasonable searches and seizures.



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In the present case, not only were Connecticut citizen Basel Soukaneh's rights violated, but he also had \$320 in cash taken from him, along with a thumb drive. And all because he was in the wrong place at the wrong time, resulting in him being accosted, pulled from his car, suffering outrageous verbal and physical abuse from the officer, handcuffed, and then placed in the back seat of the police cruiser for more than 30 minutes.

To add to the indignity, an additional 10 Connecticut police officers showed up to support Nicholas Andrzejewski, the offending officer, with none of them pointing out the outrage and preventing further violations of Soukaneh's rights.

When this case, beginning with Soukaneh's illegal arrest back in 2018, is finally settled, it is going to cost the Connecticut Police Department and the taxpayers of Connecticut a very large sum of money in recompense for the outrage.

And gun owners exercising their Second Amendment-protected rights will have the assurance that they won't risk similar harassment from overeager and undertrained officers under color of the Fourth Amendment in the future.

From the court records:

At approximately 8:43 p.m. on November 12, 2018, Basel Soukaneh stopped his car with the engine running on the side of a street in Waterbury, Connecticut.

Soukaneh's iPhone GPS, located in a holder mounted to the car's dashboard, was frozen, and he stopped his car to fix it.

The area "was dark and [known as] a high crime area well known for prostitution, drug transactions and other criminal activity."



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Within seconds after Soukaneh stopped his car, Officer Nicholas Andrzejewski approached the vehicle, knocked on the driver's side window, and according to Soukaneh, loudly demanded Soukaneh's driver's license.

The interior vehicle light was on, so although the area was dark, Andrzejewski could see the activity inside of the car when he approached the window.

As Soukaneh complied and handed his license over, he also provided Andrzejewski with a facially valid firearms permit.

While doing so, Soukaneh also disclosed to Andrzejewski that, per the permit, he was in lawful possession of a pistol that was located in the driver's side door compartment.

Until now, this was a routine traffic stop: A car idling on the side of the road in a high-crime area at night would no doubt raise the curiosity of a law-enforcement officer.

But then things went south:

Following that exchange, Andrzejewski ordered Soukaneh out of the vehicle. According to Soukaneh's description, Andrzejewski then violently "dragged [him] out of the car," pushed him to the ground, yelled and screamed at him, handcuffed him, and pat-searched his person, recovering neither a weapon nor contraband.

Andrzejewski then "shoved [Soukaneh] into the rear area of [Andrzejewski's police] cruiser," and left Soukaneh "bent over and partially on the floor of the vehicle."

Soukaneh remained "in that position, facing down and unable to see, until another police officer came along several minutes later and helped him sit up."

The CPD officer then searched Soukaneh's car and trunk, and, according to a footnote, took \$320 and a flash drive from him. And the footnote added that "it is unclear from the record whether Soukaneh ever actually received a citation."

Soukaneh filed a complaint in 2019, seeking "compensatory and punitive damages." Attorneys for Andrezejewski claimed the officer was simply doing his duty, that he had "reasonable suspicion and probable cause" [under the Fourth Amendment] to treat Soukaneh the way he did. The officer also claimed that he had "qualified immunity" just in case the court didn't buy his phony first argument.

When the court found for Soukaneh, Andrezejewski appealed. He fared no better:

That conduct, as alleged by Plaintiff-Appellee Basel Soukaneh, is that in the course of a routine traffic stop, Andrzejewski unlawfully and violently handcuffed and detained Soukaneh in the back of a police vehicle for over half an hour and conducted a warrantless search of Soukaneh's vehicle after Soukaneh presented a facially valid firearms permit and disclosed that he possessed a firearm pursuant to the permit.

On appeal, Andrzejewski argues we should reverse the district court's denial of qualified immunity because the presence of the lawfully owned firearm in the vehicle gave him the requisite probable cause to detain Soukaneh, search the interior of his car, and search his trunk.



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Drawing all permissible factual inferences in Soukaneh's favor, as we must on summary judgment, we agree with the district court. The evidence supports the conclusion that Andrzejewski violated Soukaneh's Fourth Amendment rights to be free from unreasonable search and seizure when he detained Soukaneh in the manner, and for the length of time, that he did, and when he conducted the warrantless searches of Soukaneh's car and trunk.

Andrzejewski is not entitled to qualified immunity for this alleged conduct and, accordingly, the district court properly denied his motion for summary judgment.

The three-judge panel, made up of liberal judges appointed to their positions by Biden and Obama, noted: "Regardless of whether the Second Amendment applies, however, individuals lawfully possessing a weapon should not be penalized by having a diminishment of their Fourth Amendment rights."

Attorneys for Andrzejewski could appeal to the full circuit court. Or they could appeal to the Supreme Court. But given the outrageous behavior of the officer and the complicity of the 10 other officers who showed up to support him and continued to deny Soukaneh's rights, such an appeal is not likely to succeed.

The Second and the Fourth Amendments remain robust in their protection of precious God-given rights. It's sad that Soukaneh had to endure such punishment and judicial delay before getting justice. The good news is that the three notoriously liberal judges were forced by the officer's outrageous conduct to put in writing their support both for the Second and the Fourth Amendments to the U.S. Constitution.



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