

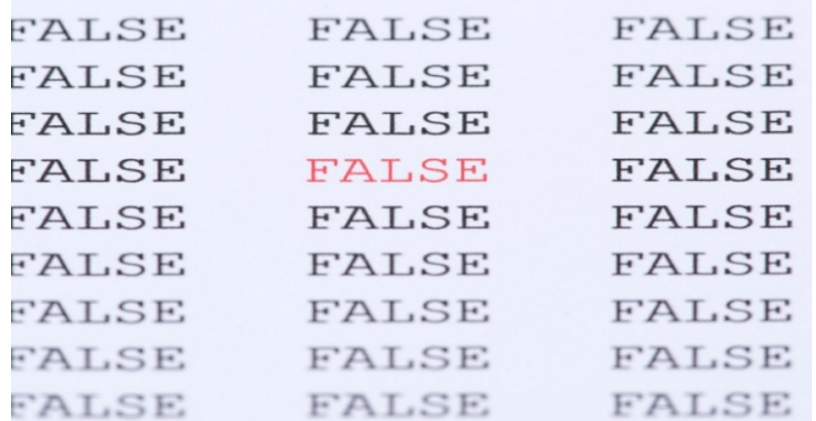


Georgia No-knock Raid Indictment: Deputy's Lie Led to Toddler's Injuries

A former deputy in the Habersham County, Georgia's Sheriff's Office lied to a judge and that lie led to a toddler lying in a coma, according to an indictment filed July 22 in a federal court.

CNN reports:

In May 2014, Nikki Autry and a team of special agents and informants from the local Narcotics Criminal Investigation and Suppression Team were "attempting undercover narcotics buys." Autry presented an affidavit to a magistrate judge falsely swearing that a "true and reliable informant" had bought a small amount of methamphetamine at a residence.



Based on the erroneous information she presented, which also included claims of "heavy traffic in and out of the residence," the judge issued Autry a "no knock" search warrant.

What happened next is horrific.

A toddler was left in a medically induced coma after a Cornelia, Georgia, SWAT team tossed a flash-bang grenade into his crib during the execution of a "no-knock" warrant. Reporters were informed by the family that the child had about a 50-percent chance of survival from the injuries.

Bounkham Phonesavanh was 19 months old when the warrant was executed and was asleep in his crib when police broke open the front door in the early morning hours and threw the grenade into the front room. His mother, father, and three sisters were in the room as well.

"Everyone's sleeping. There's a loud bang and a bright light," the boy's mother, Alecia Phonesavanh, told Atlanta news station WSB-TV after the raid. "The cops threw that grenade in the door without looking first, and it landed right in the playpen and exploded on his pillow right in his face."

In the aftermath of the nearly fatal no-knock raid, police claimed that they saw no indications that there were children in the house. The mother refuted that testimony. "They say there were no toys," Alecia Phonesavanh told the Atlanta Journal-Constitution. "There is plenty of stuff. Their shoes were laying all over."

The target of the warrant, Wanis Thometheva, wasn't present when police entered the house. The Phonesavanh family were there, though, asleep. They were visiting Georgia only because of fire damage to their home in Wisconsin.

"We have nothing to do with this (drugs)," Bounkham Phonesavanh (the father), told the Atlanta paper. Upon discovering that the target of the warrant was not at the home, police insisted they took notice of



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the serious injuries to the toddler and began trying to minimize the harm.

Sheriff Terrell told the newspaper that a medic began CPR before the child was transported to Grady Memorial Hospital. The injuries were severe enough for him to have been airlifted to the hospital, but foggy conditions made a helicopter flight “unsafe,” according to the sheriff.

“It blew open his face and his chest,” the boy’s mother told the *Atlanta Journal-Constitution* outside Grady Memorial Hospital. “Everybody was asleep. It’s not like anyone was trying to fight.”

According to an article in the U.K. *Daily Mail*, though Bounkham Phonesavanh has endured some 10 surgeries costing more than a million dollars, “His nerve endings are dead around his mouth and chest, so they will not be able to properly develop as they are supposed to, so they [surgeons] will have to go in and do stretching and grafts.” He’ll likely need surgery at least every other year as he grows.

Besides being arguably culpable for the bloody and fruitless no-knock raid, Autry and her drug task force were responsible for the death of pastor Jonathan Ayers during a raid conducted in 2009. The *Washington Post* reported:

In September 2009, the young pastor Ayers was ministering to a young woman whom a Georgia drug task force was investigating on drug charges. (She had allegedly sold an undercover officer \$50 worth of cocaine.) When task force members saw Ayers alone in the car with the woman, they switched their focus to him. According to Ayers’s lawsuit, the woman was about to be evicted from the motel at which she was staying. Ayers gave her the \$23 in his pocket to help cover her rent.

The task force followed Ayers to a convenience store, where he went in to get money from an ATM. When he returned and got into his car they pounced. They pulled up behind him in an unmarked black SUV. Armed agents dressed in street clothes then rushed Ayers’s car. He put his car in reverse and attempted to escape. In the process, he nicked one agent. Another then opened fire, killing him. Ayers told hospital staff ... that he thought he was being robbed. His reported last words were, “Who shot me?”

At the time he was killed by police, Ayers’ wife was expecting their first child.

In the indictment, Autry is charged with violating a suspect’s civil rights by “willfully depriving the occupants of the residence of their right to be free from unreasonable searches and seizures.”

Additionally, Autry is charged with depriving Thometheva of “his right to be free from arrest without probable cause.” Autry has resigned from the Habersham County Sheriff’s Office, but has not yet been arrested.

The deprivation of fundamental rights by local law enforcement is becoming increasingly and alarming more common. There is nothing more fundamental to the pursuit of justice than due process, and there is no principle suffering from more sustained attacks from all fronts.

The Fifth Amendment to the Constitution mandates that “no person shall be deprived of life, liberty, or property without due process of law.”

This amendment is a protection of a timeless principle of liberty and justice. In fact, due process as a check on monarchical power was included in the Magna Carta.

In 1354, the phrase “due process of law” appeared for the first time. The Magna Carta as amended in 1354 says: “No man of what state or condition he be, shall be put out of his lands or tenements nor taken, nor disinherited, nor put to death, without he be brought to answer by due process of law.”



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This fundamental restraint on the royal presumption of the power to lop off heads on command was incorporated by our Founders in the Bill of Rights, particularly in the Fifth Amendment.

Finally, the real and lasting legacy of the case is the SWAT unit's negligent execution of a no-knock raid that nearly killed an innocent baby.

So-called "no-knock" warrants are becoming increasingly common. In his book *Overkill: The Rise of Paramilitary Police Raids in America*, Radley Balko reports that more than 40,000 such operations are conducted every year. He also points out that these warrants almost always involve police busting into someone's home, thus destroying centuries of Anglo-American protections from government abuse of power:

Americans have long maintained that a man's home is his castle and that he has the right to defend it from unlawful intruders.

Unfortunately, that right may be disappearing.

The court in the English case of *Huckle v. Money* (1763) expressed the preeminence of the so-called Castle Doctrine: "To enter a man's house by virtue of a nameless warrant, in order to procure evidence, is worse than the Spanish Inquisition; a law under which no Englishman would wish to live an hour."

Balko argues, "The [no-knock] tactic is appropriate in a few limited situations, such as when hostages or fugitives are involved, or where the suspect poses an immediate threat to community safety. But increasingly, this highly confrontational tactic is being used in less volatile situations, most commonly to serve routine search warrants for illegal drugs."

"In the real world, the exigent-circumstances exceptions have been so broadly interpreted since Wilson [the 1995 *Wilson v. Arkansas* case], they've overwhelmed the rule. No-knock raids have been justified on the flimsiest of reasons, including that the suspect was a licensed, registered gun owner (NRA, take note!), or that the mere presence of indoor plumbing could be enough to trigger the "destruction of evidence" exception," Balko writes.

One can reasonably imagine a situation where it would be illogical and contrary to public safety for law enforcement to announce themselves. Breaking into a home at 3 a.m. and throwing flash-bang ordnance in order to possibly find a person who allegedly sold meth to a meth addict being paid by police to give them tips is hardly one of those situations, however.

Balko agrees.

"These raids are often launched on tips from notoriously unreliable confidential informants. Rubber-stamp judges, dicey informants, and aggressive policing have thus given rise to the countless examples of 'wrong door' raids we read about in the news. In fact, there's a disturbingly long list of completely innocent people who've been killed in 'wrong door' raids, including New York City worker Alberta Spruill, Boston minister Accelyne Williams, and a Mexican immigrant in Denver named Ismael Mena," he wrote.

Regardless of the lies allegedly told to obtain the warrant that led to the raid, this exercise of arbitrary and excessive force was carried out by police who were outfitted more like soldiers than law-enforcement officers.



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