Written by **Bob Adelmann** on December 3, 2014

Lawsuit Filed in Homeschool Pepper Spray Incident

In September 2011, a social services bureaucrat in Nodaway County, Missouri, responding to an anonymous complaint that the home belonging to Jason and Laura Hagan was "messy," arrived at their front door to do an investigation into the complaint. Initially unaware that the bureaucrat needed to provide them a search warrant beforehand, the Hagans let her in to inspect their home.

Following the visit, the Hagans, who homeschool their three children, asked the Home School Legal Defense Association (HSLDA) for some advice. The Hagans were advised that if anyone from social services showed up in the future, or anyone else for that matter, they should demand a court order before allowing them entry.

Sure enough, the trusty bureaucrat returned to the Hagans' residence on September 30 for a second visit, and when she was refused entry for failing to provide a search warrant (as required under the Fourth Amendment to the Constitution), she called the sheriff, who arrived with a deputy shortly thereafter to press the matter.

That's when things got interesting.

When Jason informed Sheriff's Deputy David Glidden that he needed a court order first, Glidden said he was coming in anyway. As the HSLDA explained in a letter to its members:

> As Jason turned to go back inside, Glidden sprayed him with pepper spray — first at the back of his head and then directly in his face. Glidden also sprayed Laura, who fell to the floor.
>
> Glidden then turned to Jason, who was still standing, and shot him in the back with his Taser. As Jason fell, Laura closed the front door. Glidden triggered the Taser three more times through the closed door.

Glidden and Sheriff Darren White, working together, forced entry through the closed front door and attacked Jason and Laura, who were still reeling from the previous attack by Glidden. Wrote HSLDA's Jim Mason:

> Together they forced open the door and found Laura and Jason lying on the floor. Glidden sprayed Laura in the face a second time while White sprayed Jason and tried to turn him over onto his stomach.

When the Hagan's dog started barking, the officers also sprayed it and threatened to shoot it if it didn't shut up. Having overpowered the Hagans, the officers handcuffed them both, arrested them, charged them with resisting arrest and child endangerment, and booked them into the county jail. The kids were remanded to the tender mercies of social services for the duration.

HSLDA filed suit to remedy the injustice. The judge ruled against the officers, stating,

> The State has not offered sufficient, if indeed any, evidence of an exception that would justify a

> warrantless entry.

The judge added:

> The court will not allow [an] exception to sanction warrantless entry into a private residence by pepper spring and Taser. If the officer [Glidden] had a warrant in hand and such force was necessary, that is a different story, but those are not the facts in this case.

Once that was resolved, the Hagans enlisted the help of attorney Mason to sue the sheriffs for punitive and compensatory damages and attorney fees. If the judge takes into account the Ninth Circuit Court of Appeals ruling in a similar case — *Calabretta v. Floyd* — the taxpayers of Nodaway County are going to take a massive hit.

There was no mention of any lawsuit being filed against social services, nor is there any mention by HSLDA to call the illegal entry a "home invasion."

The term "home invasion" is increasingly being used to identify a particular class of crime that involves 1) multiple perpetrators (check!), 2) forced entry into a home (check!), 3) occupants who are at home at the time of the invasion (check!), 4) the use of weapons and physical intimidation (check!), property theft (their kids — check!), and 5) victims who are unknown to the perps (check!).

An attempt by *The New American* to reach Attorney Mason to clarify why he wasn't charging the officers with a home invasion, and why social services were not included in the lawsuit, was unsuccessful. But the Fourth Amendment is very likely to be upheld, given the previous ruling in favor of the Hagans. In his letter to his members, now numbering nearly 100,000, however, Mason did clarify his intentions with the suit:

> In most situations, government agents cannot simply force their way into a home. Instead, they must explain to a neutral magistrate why they need to enter the home, and they must provide real evidence to support that need.
>
> This rule applies to all government agents. Court after court has agreed that there is no "social services exception" to the Fourth Amendment.

In *Calabretta v. Floyd*, the Ninth Circuit Court ruled on August 26, 1999 that "a social worker and a police officer are not entitled to qualified immunity for investigating a report of a child crying by making a nonconsensual entry into a home without a search warrant" and made clear that a social worker is a government official and is not only bound by the same limitations of the Fourth Amendment as are the police, but also may be sued for violations of it as well.

Home invasions such as the one suffered by the Hagans will continue until such time as sufficient numbers of homeowners learn their rights and responsibilities under the Constitution. They cannot expect groups such as the HSLDA to do all the heavy lifting. In fact, rejoicing would be heard throughout the land if the HSLDA and other groups defending against constitutional violations were forced to go out of business as a result of homeowners being aware of and defending those precious rights in the first place.

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