



Written by [Joe Wolverton, II, J.D.](#) on July 10, 2013

Nevada Man Sues Police for Commandeering His Home to Surveil Neighbor

Just when it seemed the liberties protected by the Bill of Rights couldn't possibly be in any greater peril of extinction, now the Third Amendment seems to be a candidate for inclusion on the endangered list.

A man and his family from suburban Las Vegas have sued local police for violation of their rights as guaranteed by the Third Amendment to the Constitution.

The [Third Amendment](#) reads: "No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."

The tale told by Anthony Mitchell of how he and his family were robbed of these rights is compelling and cautionary.

Mitchell was sitting at home in Henderson, Nevada, on the morning of July 10, 2011, when the phone rang. Officer Christopher Worley of the Henderson Police Department was calling Mitchell to tell him that the police were going to take over his house. In order to gain "tactical advantage" over Mitchell's next door neighbor, Officer Worley reportedly explained, police were going to set up shop in Mitchell's house.

There was no asking if Mitchell would mind such a surrender of his home. The officer was informing Mitchell that they would be commandeering his house. In his [legal complaint against the Henderson Police Department](#), Mitchell claims that he didn't want to get involved with the police department's operation against his neighbor and accordingly refused to let police occupy his home.

Not surprisingly, Mitchell's refusal didn't sit well with law enforcement. Again, according to Mitchell's complaint, Officer David Cawthorn of the Henderson Police Department, one of the members of the force who were named as defendants in Mitchell's lawsuit, "outlined the defendants' plan in his official report: 'It was determined to move to 367 Evening Side and attempt to contact Mitchell. If Mitchell answered the door he would be asked to leave. If he refused to leave he would be arrested for Obstructing a Police Officer. If Mitchell refused to answer the door, force entry would be made and Mitchell would be arrested.'"

It isn't hard in the these times of [police militarization](#) to predict what happened next.

Just before noon, five (or more) officers of the Henderson Police Department "arrayed themselves in front of plaintiff Anthony Mitchell's house and prepared to execute their plan," according to the narrative laid out in Mitchell's lawsuit.

After showing up at Mitchell's door, the officers allegedly "banged forcefully" on his door and demanded that Mitchell and his family open up.





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Seconds later, Mitchell claims, “officers ... smashed open his front door using a metal ram.”

Standing in his living room in shock, Mitchell says that the officers “aimed their weapons” at him and ordered him “to lie down on the floor.” Fearing for his life, Mitchell complied.

Mitchell says that while he was prostrate on his front room floor, Henderson Police Department officers shouted “conflicting orders” at him, some commanding him to “crawl” toward the officers, with others demanding that he stay put.

Mitchell’s complaint continues the account of this incredible afternoon:

Confused and terrified, plaintiff Anthony Mitchell remained curled on the floor of his living room, with his hands over his face, and made no movement. □Although plaintiff Anthony Mitchell was lying motionless on the ground and posed no threat, officers, including Officer David Cawthorn, then fired multiple “pepperball” rounds at plaintiff as he lay defenseless on the floor of his living room. Anthony Mitchell was struck at least three times by shots fired from close range, injuring him and causing him severe pain.

Police then took Mitchell in custody and, as they reportedly planned to do, arrested him for obstructing a police officer. After arresting Mitchell, officers searched his home, then proceeded to rearrange furniture and establish the tactical lookout they wanted all along.

Remarkably, Mitchell’s complaint claims that police played out a similar scenario at his parents’ home just down the street. Mitchell alleges:

Meanwhile, starting at approximately 10:45 a.m., police officers entered the back yard of plaintiffs Michael Mitchell and Linda Mitchell’s [Anthony Mitchell’s parents] residence at 362 Eveningside Avenue. The officers asked plaintiff Michael Mitchell if he would be willing to vacate his residence and accompany them to their “command center” under the guise that the officers wanted Michael Mitchell’s assistance in negotiating the surrender of the neighboring suspect at 363 Eveningside Avenue. Plaintiff Michael Mitchell reluctantly agreed to follow the officers from his back yard to the HPD command center, which was approximately one quarter mile away,” the complaint states. When plaintiff Michael Mitchell arrived at the HPD command center, he was informed that the suspect was “not taking any calls” and that plaintiff Michael Mitchell would not be permitted to call the suspect neighbor from his own phone. At that time, Mr. Mitchell realized that the request to accompany officers to the HPD command center was a tactic to remove him from his house. He waited approximately ten minutes at the HPD command center and was told he could not return to his home. Plaintiff Michael Mitchell then left HPD command center and walked down Mauve Street toward the exit of the neighborhood. After walking for less than five minutes, an HPD car pulled up next to him. He was told that his wife, Linda Mitchell, had “left the house” and would meet him at the HPD command center. Michael Mitchell then walked back up Mauve Street to the HPD command center. He called his son, James Mitchell, to pick him up at the HPD command center. When plaintiff Michael Mitchell attempted to leave the HPD command center to meet James, he was arrested, handcuffed and placed in the back of a marked police car.

Then, just before 2 p.m., several officers entered the backyard of the home of Michael Mitchell (Anthony Mitchell’s father) and “banged on the backdoor” ordering Linda Mitchell (Anthony Mitchell’s mother) to open up.

Mrs. Mitchell obeyed police orders and opened the back door. She then informed officers they couldn’t come into her home without a warrant. Upon being so informed, officers “seized her by the arm” and



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“entered her home without permission.”

The Mitchells’ complaint alleges that one of the officers then “forcibly pulled plaintiff Linda Mitchell out of her house,” while another took her purse and “began rummaging through it, without permission, consent, or a warrant.”

Seems that police weren’t content to deny the Mitchells the rights protected by the Third Amendment, but set their sights on the Fourth Amendment, as well.

As one officer forced Mrs. Mitchell back to the “command post,” other officers “searched and occupied” her home. When she was permitted to return home, Mrs. Mitchell reportedly found the cabinets and closets in her house were open and that the contents had been rifled through.

Finally, police took Anthony Mitchell and his father into custody, booked them into jail, and charged the pair with obstructing an officer. After spending nine hours incarcerated, they posted bail and were released.

Ultimately, the police dismissed the criminal charges against both Mitchell men.

In another unbelievable twist to the story told by the Mitchells, not one of the officers identified in their complaint ever faced any disciplinary actions and not one of them was ever the subject of a formal inquiry into his behavior on that hot July day in 2011.

The lawsuit filed by the Mitchell family seeks punitive damages for violations of the Third, Fourth, and 14th Amendments, among other complaints.

While there are few cases on point, one Georgetown law professor [quoted in a Wall Street Journal story](#) describes the Third Amendment as the “Rosetta Stone of the Bill of Rights.

“[The] Third Amendment can reveal the structure of the Bill of Rights, and its objects,” Professor Nicholas Quinn Rosenkranz wrote as reported by the *Wall Street Journal*.

A [quote by Joseph Story from his Commentaries on the Constitution](#) confirms Rosenkranz’s view.

“This provision speaks for itself. Its plain object is to secure the perfect enjoyment of that great right of the common law, that a man’s house shall be his own castle, privileged against all civil and military intrusion,” Story wrote.

The New American will continue following this story.

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