

WEEKLY APPELLATE UPDATE

The Update comes to you a day early this week, as it is a short work week due to the Fourth of July holiday.

The Fourth Circuit did not issue any published criminal decisions this week. The Supreme Court issued its last criminal decision of the Term on Monday, and granted cert in two cases regarding whether the Second Amendment guarantees the right to possess AR-15s.



Fourth Circuit Update:



Supreme Court Upcoming/Update:

On Tuesday, the Supreme Court granted cert in a post-*Bruen* case that will directly address what kinds of weapons are protected by the Second Amendment. The question presented in *Viramontes v. Cook County*, No. 25-238, and *Grant v. Higgins*, No. 25-566, is “whether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles.”

In *National Association for Gun Rights v. Lamont*, 153 F.4th 213 (2d Cir. 2025), which became *Grant*, the Second Circuit held that even if AR-15s are covered by the Second Amendment’s plain text, they are unprotected at *Bruen* step two because they are “unusually dangerous weapons unsuitable for and disproportionate to the objective of individual self-defense.” In *Viramontes v. Cook County*, 2025 WL 1553896 (7th Cir. June 2, 2025), the Seventh Circuit applied the reasoning of its previous opinion in *Bevis v. City of Naperville, Illinois*, 85 F.4th 1175 (7th Cir. 2023). That case held that (1) AR-15s are not covered by the Second Amendment’s plain text because the term “Arms” excludes “weapons that may be reserved for military use”; and (2) there is a historical tradition of limiting “especially dangerous weapons” to possession by the military, not civilians.

The Fourth Circuit's position is similar to that of the Seventh Circuit. See *Bianchi v. Brown*, 111 F.4th 438, 448 (4th Cir. 2024). The Fourth Circuit reasoned that AR-15s are not arms because they are "ill-suited and disproportionate to self-defense." *Bianchi*, 111 F.4th at 461.

In light of the Supreme Court's grant of certiorari in these cases, it is worth preserving challenges even in the face of *Bianchi* being binding at this point.

The Court issued its last criminal opinion of the term on Monday, *Chatrie v. United States*, No. 25-112, 2026 WL 1855568,

https://www.supremecourt.gov/opinions/25pdf/25-112_0am4.pdf (June 29, 2026): In 2019, someone robbed a bank in Midlothian, Virginia. The government sought a geofence warrant from Google. At the time the warrant was issued, Google stored the "Location History" of a cellphone in the cloud. However, since that time, Google has revised its policy and stores Location History on an individual user's device rather than its own servers. Law enforcement sought Location History information from Google via a "geofence" "multi-step" warrant. At the first step, officers could obtain location data for all cellphones inside the designated geofence within an hour. The second step sought additional data (two hours, both inside and outside the geofence) for a subset of the identified phones (which the officers chose themselves). The third step enabled law enforcement to obtain personal identifying information, including names, email addresses and phone numbers, again, at officers' discretion. The warrant said "very little" about how officers would make choices at the second and third steps. A state magistrate issued the warrant.

Information gleaned from the warrant led authorities to Okello Chatrie. Chatrie was arrested and charged with robbery and related firearms offenses. Chatrie filed a motion to suppress, arguing a Fourth Amendment search had occurred and that the warrant was invalid. The district court agreed that a Fourth Amendment search had occurred but that the *Leon* good faith exception applied.

Chatrie appealed to the Fourth Circuit. The district court's decision was affirmed, but the panel determined that no search had occurred because Chatrie did not have a reasonable expectation of privacy in the location data. Reconsidering the issue en banc, the Fourth Circuit affirmed with a one-sentence *per curiam* opinion. The court then divided equally 7-7 over whether a Fourth Amendment search had occurred.

The Supreme Court, relying primarily on *Carpenter v. United States*, 585 U.S. 296 (2018), determined that **an individual has a legitimate expectation of privacy in his cellphone location data. This is so even though the information acquired was for a limited period of time and via a third-party tech company.**

The Court vacated the Fourth Circuit’s decision and sent the case back for the Fourth Circuit to determine whether the “uncommon, multi-step” warrant validly authorized each stage of the search process.



Following the Fourth Circuit:

The Fourth Circuit’s next scheduled term of court will be in September 2026. The calendar usually comes out in July.

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