

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-2860

KYLE BEATTY,
Appellant

v.

CLINTON GARDNER; CALVIN IRVIN

On Appeal from the U.S. District Court, M.D. Pa.
Judge Keli M. Neary, No. 4:23-cv-00364

Before: BIBAS, CHUNG, and AMBRO, *Circuit Judges*
Argued: June 24, 2026; Filed: Sept. 16, 2026

OPINION OF THE COURT

BIBAS, *Circuit Judge*. After arresting a suspect, officers may search his person for weapons or evidence without a warrant or any further justification. But they may go only so far. To search his home, car, or cellphone, they ordinarily need to get a warrant backed by probable cause.

Today, we recognize another such limit on searches incident to arrest: strip searches. Outside of jails or prisons, officers need a search warrant (or exigent circumstances) supported by probable cause to believe that a strip search will reveal weapons, contraband, or evidence under the arrestee's clothes. Thus, the officers here violated the Fourth Amendment by

strip-searching an arrestee without a warrant or exigent circumstances. But because that limit was not clearly established at the time, qualified immunity shields them from liability. So we will affirm the District Court's summary judgment for the officers.

I. POLICE SEARCH BEATTY THREE TIMES

One afternoon, police officers Clinton Gardner and Calvin Irvin were patrolling an area of Williamsport, Pennsylvania, known for drug trafficking. They noticed Kyle Beatty and his girlfriend in a car, followed them to a gas station, and waited for them to head into the store. Gardner then approached the car. He smelled marijuana through an open window and spotted a burnt marijuana joint in the ashtray as well as marijuana flakes on the floor. So he headed toward the store to investigate.

Beatty was first searched inside the store. As Gardner approached him, Beatty put his hands up and asked if the officer wanted to search him. Gardner obliged and patted down his waistband, pockets, legs, ankles, and groin but found nothing.

Beatty was searched a second time outside. After exiting the store together, Beatty and Gardner went back to the car. Gardner warned the couple that unless its owner, Beatty's girlfriend, consented to a car search, the officers would have it towed and apply for a search warrant. Though she consented at first, she started disobeying an officer's commands. Beatty then told his girlfriend to revoke her consent to search and the officers handcuffed him, turning him face-down onto the hood of the car. Irvin searched Beatty's waist, pockets, groin, and ankles and removed his wallet, but found no contraband. After

this search, the officers put him in the back of their squad car and waited for a tow truck.

While waiting for the tow, the officers tried to get Beatty to identify himself. Gardner threatened that, until Beatty gave his full name, he would be arraigned as John Doe and could sit in jail. They could “play that game.” Dist. Ct. Dkt. 28, Exh. A.2 at 04:49.

Beatty was searched a third time after the officers drove him down to the police station. The officers brought him there solely to strip-search him, but they found nothing.

Beatty then filed this federal civil-rights lawsuit against both officers under 42 U.S.C. § 1983. He challenged the initial stop, arrest, and all three searches as unreasonable under the Fourth Amendment and retaliatory under the First Amendment. He also brought state-law claims for assault, battery, false arrest, and false imprisonment.

The District Court granted the officers summary judgment on all federal claims and declined to exercise supplemental jurisdiction over the state-law ones. It found the stop, arrest, and first two searches reasonable and the strip search shielded by qualified immunity. It likewise found the First Amendment retaliation claim barred by qualified immunity. We review *de novo*. *Tundo v. County of Passaic*, 923 F.3d 283, 286–87 (3d Cir. 2019).

II. THE STOP AND FIRST TWO SEARCHES WERE REASONABLE

The Fourth Amendment bars unreasonable searches. Its touchstone is reasonableness. *United States v. Knights*, 534 U.S. 112, 118 (2001). To discern reasonableness, courts have

developed rules that weigh the intrusion on a person's privacy against the government's legitimate interest in a search. *Id.* at 118–19. As a rule of thumb, the Supreme Court has held, searches must first be authorized by search warrants. *Katz v. United States*, 389 U.S. 347, 357 (1967). But not always.

There are exceptions for warrantless searches throughout the criminal process. When he first encounters a suspect, an officer who has reasonable suspicion may frisk the suspect's outer clothes for weapons to protect his own safety. *Terry v. Ohio*, 392 U.S. 1, 29–30 (1968). After a lawful arrest, an officer may search the arrestee's person for weapons and evidence. *Chimel v. California*, 395 U.S. 752, 762–63 (1969). Upon booking an arrestee at a police station, an officer may search his person to inventory and safeguard his possessions before jailing him. *Illinois v. Lafayette*, 462 U.S. 640, 643–47 (1983). And at the end of the process, guards may strip-search inmates before putting them into the general population of a jail or prison. *Florence v. Bd. of Chosen Freeholders*, 566 U.S. 318, 328 (2012). Plus, at any time during the process, valid consent makes a warrantless search reasonable. *Schneckloth v. Bustamonte*, 412 U.S. 218, 222 (1973). The same is true of exigent circumstances. *See Kentucky v. King*, 563 U.S. 452, 460 (2011).

The first warrantless search, the pat-down inside the store, was reasonable. Beatty consented to the pat-down, so it was reasonable for Gardner to perform one. And Gardner was entitled to stop Beatty in the first place because he had reasonable suspicion. Indeed, Gardner had not only reasonable suspicion, but probable cause to suspect Beatty of a crime: The officer had smelled and seen traces of marijuana in the car, and

possessing even a small amount of that drug is a state-law crime. 35 Pa. Cons. Stat. § 780-113(a)(31); *United States v. Ramos*, 443 F.3d 304, 308 (3d Cir. 2006) (recognizing that the smell of marijuana alone can show probable cause).

The second warrantless search, on the hood of Beatty's car, was reasonable as a search incident to arrest. Both parties agree that Beatty was under arrest. And the arrest itself was lawful: As discussed, the officers had probable cause to believe that he possessed marijuana.

III. STRIP SEARCHES EXCEED THE SCOPE OF SEARCHES INCIDENT TO ARREST

The difficulty lies with the third search. True, Beatty was still under arrest. Even so, we hold that the search-incident-to-arrest doctrine does not authorize strip searches; they go too far. Because the officers had neither a warrant nor exigent circumstances to justify strip-searching Beatty, that search was unreasonable.

The search-incident-to-arrest doctrine is a rule, not a case-specific balancing test. *United States v. Robinson*, 414 U.S. 218, 235 (1973). After a lawful arrest, officers may automatically search an arrestee's person. No warrant, or even particularized suspicion, is needed. Such a search is per se reasonable because arrests are highly charged: Officers need to quickly separate an arrestee from (1) weapons that he might pull out or (2) evidence that he might destroy. *Chimel*, 395 U.S. at 762–63. This rule has categorical exceptions for certain privacy interests that categorically outweigh the government's interests in conducting a search. Thus, certain searches categorically fall outside the doctrine. *See, e.g., id.* (ruling out a home

search incident to arrest); *Arizona v. Gant*, 556 U.S. 332, 343 (2009) (same for a car); *Riley v. California*, 573 U.S. 373, 386 (2014) (same for cellphone data).

Riley illustrates how to gauge the limits on searches incident to arrest. There, officers searched two arrestees' cellphones without warrants. The Supreme Court held that the search-incident-to-arrest doctrine does not license warrantless searches of cellphone data. 573 U.S. at 386. It reasoned that neither of *Chimel*'s justifications ordinarily applies to cellphones. First, cellphones rarely enable escape or endanger officer safety. Data are not weapons. *Id.* at 387. In the rare case when the failure to search a cellphone could endanger an officer, courts should instead rely on the case-specific exigent-circumstances exception to the warrant requirement. *Id.* at 388.

Second, there is rarely a serious need to prevent destruction of evidence: Once arrested, arrestees usually cannot delete data, and police can prevent destruction by turning phones off or putting them into Faraday bags. *Id.* at 388–91. *Riley* also noted that destruction of cellphone evidence is uncommon. *Id.* at 389. And when officers do have an immediate need to prevent that destruction, they may rely on the exigent circumstances to justify a warrantless search. *Id.* at 391.

Those governmental interests, *Riley* explained, pale in comparison to users' interests in keeping their cellphone data private. *Id.* at 393–98. Cellphones contain and reach enormous amounts of personal data, much of it intimate. *Id.* Because of "all they contain and all they may reveal," the Court held that the search-incident-to-arrest doctrine does not cover cellphone data. *Id.* at 403. Though officers may seize a cellphone incident

to arrest, to search its data they must “get a warrant” backed by probable cause. *Id.*

Applying *Riley*’s categorical approach, we hold that the search-incident-to-arrest doctrine does not include strip searches either. To start, *Chimel*’s twin rationales are not implicated. As for destruction of evidence, the officers give us little reason to believe that destruction of evidence concealed on an arrestee’s body pending a search warrant is a widespread problem. Gardner did testify that “in [his] experience, [with] both traffickers and users, one of the most common places that they conceal narcotics is in their groin area.” JA 278. But *Riley* dismissed “only a couple of anecdotal examples” as not enough to justify evidence preservation across the board. 573 U.S. at 389. Particular crimes, such as smuggling drugs by airplane passengers, may often involve concealing drugs on the body. Even so, we see no solid evidence to justify strip searching all drug users and traffickers as a matter of course. And there are ways short of strip searches to keep suspects from disposing of secreted evidence on or in their persons. *Id.*

As for *Chimel*’s officer-safety rationale, police are free to pat arrestees down for weapons. If a frisk turns up a potentially dangerous bulge, that may amount to exigent circumstances justifying a further search for weapons. The same is true if police have some other particularized reason to believe that this arrestee is concealing a dangerous weapon. But no such danger was present here: The officers had already searched Beatty twice, finding nothing dangerous. No one had told them that he was concealing a gun or knife in his crotch. And they admit they were searching him solely for evidence, not weapons. Given the various alternative sources of authority that

officers could rely on to justify a further search, there is little need to authorize strip searches automatically upon arrest.

On the other side of the balance, the privacy interests are weighty. Strip searches expose to strangers the most intimate parts of the body, which are kept covered for modesty and called “private parts.” These searches are an “extreme intrusion on privacy.” *Parkell v. Danberg*, 833 F.3d 313, 327 (3d Cir. 2016) (internal quotation marks omitted). They are “embarrassing” and “humiliating,” sometimes even “frightening.” *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 374–75 (2009). That humiliation is a necessary evil to keep weapons, drugs, other contraband, and lice out of the general population of jails and prisons. *Bell v. Wolfish*, 441 U.S. 520, 558 (1979); *Florence*, 566 U.S. at 330–33 (majority), 340–41 (Alito, J., concurring). But because Beatty was not going to be jailed or imprisoned, the institutional-search exception does not apply here.

Given the balance of competing interests, we hold that the search-incident-to-arrest doctrine does not extend to strip searches. Sometimes, an arrestee may consent to a strip search. Or exigent circumstances may justify it: For instance, an officer might detect a weapon during a pat-down or know that this arrestee conceals weapons in his crotch. Otherwise, an officer must first get a search warrant based on particularized facts showing probable cause to search underneath the arrestee’s clothing. *See Ybarra v. Illinois*, 444 U.S. 85, 91 (1979).

The officers here had no warrant, exigent circumstances, or consent. They had already searched Beatty twice, once inside the store and again on the hood of the car, without finding

weapons or contraband. They had no particularized reason to believe that a warrantless third search was needed to preserve evidence. Their generalized speculation about drug users and traffickers is not specific enough to show that Beatty might have concealed evidence, let alone that he might destroy it immediately.

True, other circuits have let officers strip-search arrestees based only on reasonable suspicion. *United States v. Perez*, 977 F.3d 163, 169–70 (1st Cir. 2020); *Campbell v. Miller*, 499 F.3d 711, 717 (7th Cir. 2007); *Richmond v. City of Brooklyn Ctr.*, 490 F.3d 1002, 1006 (8th Cir. 2007); *Justice v. Peachtree City*, 961 F.2d 188, 193 (11th Cir. 1992). But we are unpersuaded. This approach rests on older cases that predate the Supreme Court’s reweighing of the privacy interests in *Safford* and *Florence*, not to mention *Riley*. And these cases failed to explain why they adopted a standard below the ordinary requirement of probable cause. Instead, we join the Fifth, Ninth, and Tenth Circuits in requiring a warrant supported by probable cause. *Williams v. Kaufman Cnty.*, 352 F.3d 994, 1005 (5th Cir. 2003); *Fuller v. M.G. Jewelry*, 950 F.2d 1437, 1446–50 (9th Cir. 1991); *Hinkle v. Beckham Cnty. Bd. of Cnty. Comm’rs*, 962 F.3d 1204, 1239 (10th Cir. 2020).

IV. BUT THE OFFICERS HAVE QUALIFIED IMMUNITY

Though the strip search violated the Fourth Amendment, that is not enough to make the officers liable. They raise the defense of qualified immunity. To apply that defense, we first define the right specifically, then ask if a reasonable officer would have been on notice that his conduct would violate that right. *Otero v. Kane*, 161 F.4th 189, 194 (3d Cir. 2025). The

right must be clearly established by “Supreme Court precedent, our own precedent, or a consensus of authority among the courts of appeals plac[ing] that right beyond debate.” *Id.* (cleaned up). When a challenged police action presents an unusual, rarely discussed legal question, we have held that the action violated the Constitution yet was shielded by qualified immunity. *Doe v. Groody*, 361 F.3d 232, 243 (3d Cir. 2004) (citing two cases that did so).

We start by defining the right carefully. An arrestee (who is not being admitted to the general population of a jail or prison) has a Fourth Amendment right to be free of a strip search. That right can be overcome by consent to the search, exigent circumstances, or a warrant backed by probable cause to believe that searching under the clothing will uncover a weapon, contraband, or evidence of a crime. The District Court properly held that this right was not clearly established at the time of the search. “[N]either the Supreme Court nor the Third Circuit ... ha[d] directly addressed—outside the institutional setting—the constitutionality of strip searches incident to arrest.” *United States v. Parker*, 458 F. Supp. 3d 260, 265 (M.D. Pa. 2020), *aff’d*, 2023 WL 4117474 (3d Cir. June 22, 2023). Thus, the officers enjoy qualified immunity from Beatty’s Fourth Amendment strip-search claim.

Beatty’s First Amendment retaliation claim fails too. His stop, arrest, and first two searches were lawful, supported by probable cause. *Nieves v. Bartlett*, 587 U.S. 391, 404 (2019) (holding that lack of probable cause is generally required to make out a retaliatory-arrest claim). And even though there was no probable cause to strip-search Beatty, any related retaliation claim based on the third search is shielded by qualified

immunity. The right claimed here is the right to be free of a search made in retaliation for refusing to cooperate with the police during an investigative seizure. Beatty cites no cases in which a plaintiff has made out a successful First Amendment retaliation claim based on his unwillingness to cooperate with a police search. Several of our sister circuits have previously granted qualified immunity from similar claims, reasoning that there is no clearly established “*First Amendment* right to remain silent when questioned by the police.” *Moore v. Garand*, 83 F.4th 743, 750 (9th Cir. 2023); *accord Alexander v. City of Round Rock*, 854 F.3d 298, 308 (5th Cir. 2017); *Koch v. Del City*, 660 F.3d 1228, 1244 (10th Cir. 2011). So a reasonable officer would not have known that a search conducted in response to Beatty’s unwillingness could be a basis for a First Amendment claim.

* * * * *

The officers began their encounter with Beatty lawfully. They had probable cause to arrest him, and it was reasonable to search him in the course of that arrest. But they went too far by strip-searching him. We hold that the search-incident-to-arrest doctrine does not license strip searches as a matter of course. Unless the arrestee consents or there are exigent circumstances, police must first get a search warrant backed by probable cause to believe that they will find weapons, contraband, or evidence under his clothes. Because the officers had no such warrant or probable cause, they violated Beatty’s Fourth Amendment right. But that right was not clearly established, so qualified immunity shields the officers. The same is true for his First Amendment retaliation claim. We will thus AFFIRM the summary judgment for the officers.

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