Roger Frazier

From: Roger Frazier  
Sent: Thursday, February 16, 2012 3:10 PM  
To: 'David Euchner'  
Cc: Ralph Ellinwood  
Subject: Issues of Law for PTO

Issues of Law.

Whether the primary purpose of the checkpoint was to check sobriety, drivers’ licenses, and registration documents, including insurance where applicable.

Whether defendants’ checking sobriety, drivers’ licenses, and registration documents, including insurance where applicable, without reasonable suspicion or probably cause of crime, were permissible purposes of the checkpoint which do not violate the Fourth Amendment.

Whether defendants were required at the checkpoint to ignore obvious signs of contraband or other crimes in plain view, in order to avoid a finding of general crime control.

Whether general crime control was a primary purpose of the checkpoint.

Whether, if general crime control is found to be a primary purpose of the checkpoint, that Defendant Traviola is entitled to qualified immunity because he had no role in planning or supervising the checkpoint.

Whether, if a primary purpose is held to be general crime control because of license checks, the defendants are entitled to qualified immunity, because there was no right clearly established against checking licenses at a suspicionless checkpoint, and it would not have been clear at that time to a reasonable officer that his conduct was unlawful by doing so.

Whether, if a primary purpose is held to be general crime control because of wants and warrants checks, the defendants are entitled to qualified immunity, because there was no right clearly established against checking for wants and warrants at a suspicionless checkpoint, and it would not have been clear at that time to a reasonable officer that his conduct was unlawful by doing so.

Whether, if a primary purpose is held to be general crime control because of trunk searches, the defendants are entitled to qualified immunity, because there was no right clearly established against trunk searches based on consent or probable cause at a suspicionless checkpoint, and it would not have been clear at that time to a reasonable officer that his conduct was unlawful by doing so.

Whether, if a primary purpose is held to be general crime control because of a finding of intent to identify criminal conduct including alien and drug smuggling, or any similar crime other than sobriety or traffic or vehicle violations, the defendants are entitled to qualified immunity, because there was no right clearly established against looking for evidence of crimes in plain view or by consent at a suspicionless checkpoint, and it would not have been clear at that time to a reasonable officer that his conduct was unlawful by doing so.

Whether any defendant is entitled to qualified immunity if his belief that the checkpoint and his own actions were governed under tribal authority as opposed to state authority.
Whether Defendants are entitled to qualified immunity based on any other findings of facts. For example, the presence of federal officers and their actions at any given time.

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