Case: 25-2174
DAVID BRODY v. COSTCO WHOLESALE CORPORATION

(Disability Discrimination and Retaliation)

STATEMENT OF THE CASE

David Brody, who is deaf, has worked for Costco Wholesale Corporation since 2012. In 2015, he drove a forklift at Costco's Middleton, Wisconsin, warehouse. Though promoted into a supervisory role later in 2015, he still drove a forklift regularly. In December 2016, Costco allowed him to drive without hearing aids. He had several documented forklift accidents, and one in October 2017 required recertification. Costco could not find his original certification, and the parties dispute whether he was ever certified. In August 2017, Brody filed an Equal Employment Opportunity Commission ("EEOC") charge against Middleton General Manager, Silvia Comunale. After Brody applied in April 2018, Costco selected him and three other employees (with hearing) for full-time Middleton forklift jobs, putting the others on the ("prestigious") morning shift and Brody on the night shift. Pay and hours were the same. Brody declined. He transferred to Sun Prairie, where his former manager, Justin Ferguson, was general manager. Brody passed the tests for a forklift job there. In a November 5, 2018, letter, Ferguson wrote that Brody "would generally be regarded as the most qualified candidate" but put the job on hold over its "auditory requirements" and Middleton managers' reports about his driving. On January 14, 2019, citing "safety concerns," Ferguson chose Michael Vandenbrook, who had one forklift counseling notice (compared with Brody's four documented accidents). Costco attributes both decisions to safety. Brody argues that its shifting rationale masked disability discrimination and retaliation.

PROCEDURAL HISTORY

In May 2023, Brody sued Costco in the Western District of Wisconsin under Title I of the ADA and Section 504 of the Rehabilitation Act. He alleged discrimination and retaliation. After Costco moved for summary judgment, the magistrate judge compelled Ferguson's deposition but refused to stay the briefing. Brody's Rule 56(d) request was denied by Judge Peterson on January 23, 2025. The court granted summary judgment for Costco, holding that the night-shift offer was not an adverse action under *Muldrow v. City of St. Louis* and that no reasonable jury could have found pretext at Sun Prairie.[1] On June 30, 2025, the court denied Brody's motion for reconsideration. Brody appealed.

ISSUES LIKELY TO BE RAISED

- Whether the night-shift assignment (at the same pay and hours) caused "some harm" to a term or condition of employment under *Muldrow.*
- Whether Brody forfeited his "prestige" theory by first raising it only on reconsideration.
- Whether, viewing the evidence as a whole under *Ortiz v. Werner Enterprises*, a reasonable jury could have found Costco's safety rationale for choosing Vandenbrook pretextual.[2]
- Whether a reasonable jury could have found Brody's EEOC charge a but-for cause of either decision, given the dispute over whether the general managers knew of it.
- Whether this Court may consider Ferguson's post-briefing deposition, and whether Brody waived any challenge to the denial of Rule 56(d) relief.

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[1] *Muldrow v. City of St. Louis*, 601 U.S. 346 (2024).
[2] *Ortiz v. Werner Enters., Inc.*, 834 F.3d 760 (7th Cir. 2016).

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Case: 25-1501
KATRINA BURLET v. JOHN BALDWIN & GLADYSE TAYLOR
(First Amendment)

STATEMENT OF THE CASE

From October 2017, Katrina Burlet (now Baugh), a volunteer, taught a debate class to inmates at Stateville Correctional Center (near Chicago). Senior Chaplain George Adamson suggested the topic of *parole reform*, and the class chose it. A first debate was staged on December 15, 2017, with a small audience, including members of the public. On March 21, 2018, the class staged another debate in the prison with outside audience members, including invited Illinois legislators and members of the general public, but not media. Gladyse Taylor, Assistant Director of the Illinois Department of Corrections ("IDOC"), attended. In an internal email, Taylor said she wanted to attend a legislator's requested return visit to "clarify some misinformation presented during the debate." On April 3, 2018, she visited the class and allegedly said she disliked the parole discussion, wanted no further contact with legislators about parole, and wanted legislators focused on the IDOC budget. Taylor also allegedly said she could cancel the class at any time because it was not "evidence-based." Over the following weeks, IDOC officials suspended future classes and first declined, then approved, and finally canceled a videotaped reenactment of the debate. On April 25, 2018, a stop order was entered against Burlet. On April 26, 2018, at a public IDOC Advisory Board meeting, Burlet delivered what she described as a message from God (including "There is time to repent, but it is short"), which some IDOC officials found threatening. A second stop order, issued April 27, 2018, barred her from all IDOC facilities. The IDOC officials attribute their actions to programming priorities, Burlet's disregard of instructions, undisclosed fundraising, and concerns over prison security. Burlet contends that the officials acted to silence the class's parole advocacy.

PROCEDURAL HISTORY

In August 2018, Burlet sued IDOC Director John Baldwin and Taylor under §§ 1983 and 1985 in the Northern District of Illinois. She alleged First Amendment violations, retaliation, procedural due process, conspiracy, and failure to intervene, plus state-law defamation. In April 2020, Judge Tharp dismissed the defamation claim but found viewpoint discrimination plausibly alleged. After discovery, the court granted summary judgment on February 21, 2025, finding no evidence of viewpoint discrimination. The court granted qualified immunity and held the actions justified under *Turner v. Safley*.[1] Burlet appealed, pressing only her free-speech retaliation claim.

ISSUES LIKELY TO BE RAISED

- Whether Burlet's speech about parole reform was protected by the First Amendment.
- Whether Taylor's April 3 statements to the class would deter a person of ordinary firmness.
- Whether a reasonable jury could find Burlet's parole speech a motivating factor in the class cancellation and the stop orders.
- Whether Defendants' actions were justified under *Turner* as reasonably related to legitimate penological interests.
- Whether Baldwin and Taylor are entitled to qualified immunity.

[1] *Turner v. Safley*, 482 U.S. 78 (1987).

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Case: 25-2642 cons w 26-2663
CARLIN ANDERSON, et al. v. KWAME RAOUL, et al.

(Second Amendment)

STATEMENT OF THE CASE

Since 1961, Illinois has made it a felony, generally punishable by two to five years in prison, to possess "any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm." 720 ILCS 5/24-1(a)(6). Federal law requires suppressors to be registered but does not prohibit them. The plaintiffs are four Illinois gun owners seeking to possess suppressors. Theodore Ray Buck Jr. shoots on his property, where noise complaints have drawn police attention. Larry Morse, a firearms instructor who lost hearing during Army service, seeks a suppressor for training and home defense. Dave Clark is a hunter and long-range shooting competitor. Carlin Anderson owns a suppressor but stores it outside Illinois. Plaintiffs claim suppressors reduce gunshot noise by approximately 20 to 30 decibels and decrease recoil and flash, though suppressed firearms remain about as loud as a firecracker. They also state that suppressors are legal in 42 states, owned by millions, and rarely used in crimes. The State argues that a suppressor is not an "arm" and is unnecessary to exercise the right, as plaintiffs already shoot without one and hearing protection is available through earplugs and earmuffs.

PROCEDURAL HISTORY

In 2022, Morse and Buck initiated legal action against Attorney General Kwame Raoul and two State's Attorneys in the Southern District of Illinois. Anderson and Clark filed a parallel lawsuit in February 2023, and the court subsequently consolidated the cases. Both suits sought declaratory and injunctive relief under § 1983. The State moved for judgment on the pleadings only at the first, textual step of *New York State Rifle & Pistol Ass'n v. Bruen*, and discovery was stayed without objection.[1] On September 5, 2025, Judge Dugan granted the motion. Accepting Plaintiffs' allegations about the benefits of suppressors, he held that they had not alleged an eighteenth century or nineteenth-century "archetypal device" showing that the Framers would have considered suppressors "arms." Plaintiffs appealed, and this Court consolidated the appeals.

ISSUES LIKELY TO BE RAISED

- Whether the relevant conduct is possessing a suppressor or possessing a suppressed firearm, and whether either falls within the Second Amendment's plain text.
- Whether the Second Amendment covers items designed to facilitate a firearm's use, or only those necessary to exercise the right, as the Ninth Circuit held in *Duncan v. Bonta*.[2]
- Whether, under *District of Columbia v. Heller* and *Caetano v. Massachusetts*, the district court erred in requiring a historical precursor to the suppressor.[3]
- Whether Plaintiffs may invoke *Bevis v. City of Naperville*, decided after briefing below, on whether suppressors satisfy its test as items not predominantly useful in military service.[4]
- If the Court reverses, whether it should direct judgment for Plaintiffs or remand for the State to attempt a historical justification at *Bruen*'s second step.

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[1] *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022).
[2] *Duncan v. Bonta*, 133 F.4th 852 (9th Cir. 2025) (en banc).
[3] *District of Columbia v. Heller*, 554 U.S. 570 (2008); *Caetano v. Massachusetts*, 577 U.S. 411 (2016) (per curiam).
[4] *Bevis v. City of Naperville*, 85 F.4th 1175 (7th Cir. 2023).

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Case: 25-3241
UNITED STATES OF AMERICA v. KORDAROW MOORE
(Fourth Amendment, Second Amendment)

STATEMENT OF THE CASE

On September 22, 2024, Wisconsin State Trooper, Redouan Oubouha, stopped Kordarow Moore on Interstate 94 for driving 101 mph in a 70 mph zone. Moore lowered the window only halfway and did not answer at first. The Trooper smelled a strong odor of alcohol from an unknown source in the SUV. The passenger, Tiana Harris, had been celebrating her birthday and said the smell was "because of me." Moore said he had a couple of shots at a bar, showed signs of impairment, and registered a .135 on a portable breath test (with .08 as the limit). The Trooper arrested Moore for operating while intoxicated ("OWI"), removed Harris, and searched the passenger compartment. He had seen no open containers and found no alcohol, but he found a rifle under the passenger seat. The Trooper testified that he searched the car in almost every OWI arrest and found alcohol about half the time. The government says the odor, Moore's evasiveness, and his understated drinking justified the search. Moore says those facts are present in nearly every OWI arrest.

PROCEDURAL HISTORY

Moore was indicted in the Western District of Wisconsin for possession under 18 U.S.C. § 922(g)(1). He moved to suppress the rifle under *Arizona v. Gant* and to dismiss the indictment under the Second Amendment.[1] Judge Conley denied the motion to dismiss under *United States v. Gay*.[2] After an evidentiary hearing, Magistrate Judge Boor recommended suppression because no facts were particularized to the car. Moore entered a conditional guilty plea. Objecting, the government first argued that an OWI arrest categorically permits a search. On October 24, 2025, the district court held that argument waived but denied suppression, finding it reasonable under the totality of the circumstances to believe the car might hold evidence of OWI. He was sentenced to 30 months. Moore appealed.

ISSUES LIKELY TO BE RAISED

- Whether the government waived its argument that an OWI arrest categorically authorizes a search under *Gant* by first raising it in objections to the magistrate judge's report.
- If not, whether *Gant*'s "reasonable to believe" prong turns on the offense of arrest alone or on facts particularized to the vehicle, as in *United States v. Salazar* and *State v. Coffee*.[3]
- Whether the odor, Moore's evasiveness and understated claims about drinking, and the Trooper's experience justified the search, or whether relying on them is a de facto categorical rule.
- Whether the court erred in finding that Moore had not come from a bar and that the odor persisted after Harris left, and whether *Coffee* or *United States v. Taylor* fits better.[4]
- Whether *United States v. Watson* forecloses Moore's as-applied challenge to § 922(g)(1), which Moore concedes, but also preserves.[5]

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[1] *Arizona v. Gant*, 556 U.S. 332 (2009).
[2] *United States v. Gay*, 98 F.4th 843 (7th Cir. 2024).
[3] *United States v. Salazar*, 69 F.4th 474 (7th Cir. 2023); *State v. Coffee*, 2020 WI 53, 943 N.W.2d 845.
[4] *United States v. Taylor*, 49 A.3d 818 (D.C. 2012).
[5] *United States v. Watson*, 171 F.4th 1012 (7th Cir. 2026).

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Case: 25-2489
UNITED STATES OF AMERICA v. QUINTEZ L. TURNER
(Fourth Amendment)

STATEMENT OF THE CASE

On November 6, 2018, Ramiro Aguas, who owned an apartment complex in Champaign, Illinois, told Urbana police investigator, Matthew Quinley, that his office had received a tenant's complaint about "suspicious drug activity and the strong odor of cannabis" coming from Apartment 103. While showing the vacant unit directly above, Aguas had smelled cannabis outside Apartment 103, and the odor upstairs was so strong that he had to open the windows. On November 4 and 7, a man not on the lease answered the door of Apartment 103, said the tenant was in Chicago, and Aguas again smelled a strong odor of cannabis. On November 7, with Quinley and Aguas present, a state judge issued two warrants: one for a canine sniff at the apartment door, and an anticipatory warrant to search inside if the dog alerted. The dog alerted, and on November 8, 2018, police found Turner inside with about 31 grams of heroin, a scale, and two firearms. Illinois then permitted medical cannabis and treated possession of 10 grams or less as a civil infraction. Turner accepts that Aguas smelled what he said he smelled but argues that odor alone could not supply probable cause to search a home. The government responds that the affidavit as a whole sufficed and that marijuana remained illegal under federal law.

PROCEDURAL HISTORY

Turner was charged in the Central District of Illinois with heroin and firearm offenses and moved to suppress. Judge Bruce denied the motion on October 28, 2020. The court determined that the persistent, strong odor and the tenant's complaint established probable cause and supported an inference that the quantity exceeded 10 grams. Alternatively, he applied the good-faith exception of *United States v. Leon*, noting that Turner had not answered that argument.[1] Because Turner's first guilty plea did not preserve the issue, this Court declined to reach it but remanded for resentencing. On remand, the district court found counsel ineffective and vacated the conviction, and Turner entered a conditional plea reserving the issue. In August 2025, Judge Mihm imposed 240 months. Turner appealed.

ISSUES LIKELY TO BE RAISED

- Whether the unnamed tenant's uncorroborated complaint of "suspicious drug activity" deserves any weight in the totality of the circumstances.
- Whether, after Illinois legalized medical cannabis and decriminalized small amounts, the odor of cannabis alone establishes probable cause to search a residence or infer possession of more than 10 grams.
- Whether federal law establishes probable cause independently of Illinois law, and whether local law enforcement may search for evidence of a federal offense that is not criminalized under Illinois statutes.
- Whether, if the sniff warrant is invalid, a canine alert can justify searching the apartment.
- Whether Turner waived any good-faith challenge, and whether, given *White v. Stanley* and *United States v. Whitaker*, the officers reasonably relied on the warrants.[2]

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[1] *United States v. Leon*, 468 U.S. 897 (1984).
[2] *White v. Stanley*, 745 F.3d 237 (7th Cir. 2014); *United States v. Whitaker*, 820 F.3d 849 (7th Cir. 2016).

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Case: 25-2717
EFRAIN TAPIA v. WSA USA, LLC
(Products Liability)

STATEMENT OF THE CASE

WSA USA, LLC, distributes the Dual Inverter Top Prefeeder, a box-making machine whose waste gate ejects rejected sheets through an opening at the bottom of a metal safety cage. WSA trained operators, including Efrain Tapia, on lockout procedures and instructed them to not enter the cage while the machine ran. Tapia says WSA neither trained him to clear jams nor warned him not to reach through the opening. The waste gate often jammed. Tapia says he saw coworkers clear jams by reaching in while the machine ran. Tapia had more than thirty years of experience with similar machines and knew a running machine could pull in his hand. On June 30, 2020, Tapia got down on his hands and knees, reached through the opening without turning off the machine, and grabbed a jammed sheet. Tapia says the waste gate pulled in and crushed his hand, which required surgery. He calls the oversized opening a design defect. WSA calls his bypass unforeseeable.

PROCEDURAL HISTORY

In 2022, Tapia sued WSA in the Circuit Court of Cook County for design defect and failure to warn in negligence and strict liability, and WSA removed the case to federal court. WSA sought summary judgment on the open and obvious rule and assumption of risk. On April 22, 2025, Judge Ellis entered judgment for WSA on the failure-to-warn claims, finding a reasonable person would see and avoid the waste gate's danger, so WSA had no duty to warn. It rejected assumption of risk as a bar to strict liability. It denied the motion on the design claims because WSA relied on that rule alone and raised other arguments only in reply. On September 3, 2025, citing judicial economy and the motion in limine briefing, the court granted reconsideration. It held the injury unforeseeable, so WSA owed no duty in negligence. On strict liability, it found risk-utility disputes but held that the design was not a proximate cause. Tapia appealed.

ISSUES LIKELY TO BE RAISED

- Whether the notice of appeal reaches the summary judgment ruling under Rule 3(c)(4), and whether review is de novo under *Nicholson v. City of Peoria*.[1]
- Whether the district court properly granted reconsideration based on arguments WSA first raised in reply and then developed in the motion in limine briefing.
- Whether the open and obvious finding establishes that the injury was unforeseeable and that WSA owed Tapia no design duty.
- Whether the opening was a mere condition and Tapia's conduct a superseding cause, given Tapia's arguments that only a third party's act can supersede and that *Steinberg v. SICA S.P.A.* does not apply because nobody modified the machine.[2]
- Whether the district court improperly weighed the open and obvious factor under the risk-utility test, or whether the issue is moot because the court rested strict liability on proximate cause.

[1] *Nicholson v. City of Peoria*, 860 F.3d 520 (7th Cir. 2017).
[2] *Steinberg v. SICA S.P.A.*, No. 04-CV-22, 2006 WL 618593 (M.D. Ga. Mar. 10, 2006).

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