

You Don't SEE THAT EVERY DAY

WRITTEN BY JOHN G. BROWNING

I ONCE TRIED A CASE IN EAST TEXAS. As we prepared to resume after a lunch break, the plaintiff prepared to take a seat. However, unaware that his attorney had pulled the chair a bit too far out from counsel's table and then turned his attention elsewhere, the plaintiff instead took a pratfall backward onto the floor. Fortunately, nothing was damaged other than his pride. I'll always remember the judge's wry observation, under his voice to the bailiff, "Well, you don't see that every day."

The truth is our legal system yields plenty of "you don't see that every day" moments. For instance, Kansas law enforcement authorities have their hands full protecting bodies of water. Officials from the state's Department of Wildlife and Parks recently seized a 9 mm handgun "that was being used to take fish in Garden City," according to CNN. The offenders were issued citations for "illegal means of take of fish" and reminded that "firearms are not a legal means to take fish." And that's no fish tale.

Speaking of wildlife, criminal suspects on the run should probably remember that, to cows, the phrase "snitches get stitches" has no meaning (like most words). Recently, a 34-year-old man in Boone, North Carolina, forgot this sage advice when he fled from a traffic stop. After abandoning his vehicle, the suspect ran into an

undeveloped area and eventually tried to hide in a herd of cows. Police couldn't see at first where the fleetfooted suspect was, but then "received some unexpected, but welcomed, assistance from some local cows." According to a Boone Police Department Facebook post, "The cows communicated with the officers as best they could and finally just had the officers follow them to the suspect's location." Perhaps we owe this moo-ving experience to the cows feeling behooved to assist, or maybe we should just chalk it up to bovine intervention?

Maybe the police officers in Enid, Oklahoma, would have been better off with bovine informants. On May 9, 2023, police responding to the report of a person in distress were sure that they heard a person calling for help. But as their body cams revealed, the "damsel in distress" turned out to be the bleating goat belonging to a local farmer. Now that's a baaad call . . .

And while we've all heard of the Monopoly-inspired phrase "Get Out of Jail Free" card, nobody expects to actually use one for real (just like nobody expects a little monocle-wearing man in formal wear to hand you the keys to Park Place). Perhaps that's why officers from the Chisago County Sheriff's Office (Minnesota) were so bemused by the antics of a driver on March 24, 2023. When pulled over by the officers, the unidentified driver handed over his license—and a "Get Out of Jail Free" card straight from the popular board game. Officers declined to say if the motorist received a ticket, but stated that he did get "points for the effort and humor." However, as the sheriff's office added unnecessarily, "Unfortunately, the state of Minnesota does not recognize this as a valid document."

And finally, the reasonable expectation of privacy that one has

under the Fourth Amendment to be free from unreasonable searches and seizures is well documented and not particularly controversial. The U.S. Supreme Court has held that one has a reasonable expectation of privacy not only in one's home, but potentially when one is a guest in someone else's home as well. So when Joel Michael Guy Jr. appealed his conviction for murder and contended that the search of the house where he was staying as a guest violated his constitutional rights, it may not have attracted that much attention. But there's more to the story, as the Tennessee Court of Criminal Appeals pointed out in an April 28, 2023, opinion. It seems that while the then-28-year-old Guy was a guest in his parents' home, he decided to murder them for the life insurance money. In a defense that you don't see every day, Guy argued that the police search of his parents' home had violated his expectation of privacy as a guest. The court pointed out that killing and dismembering your hosts had a way of terminating such guest rights. As the court held, "by attacking and killing the victims upon whose premises he relied in claiming that he was an overnight guest, the defendant no longer had a reasonable expectation of privacy in the [victims'] residence that society is willing to recognize as reasonable at the time of the officers' entry into the residence."

You don't see that every day. **TBJ**



JOHN G. BROWNING

is a former justice of the 5th Court of Appeals in Dallas. He is a past chair of the State Bar of Texas Computer & Technology Section. The author of five books and

numerous articles on social media and the law, Browning is a nationally recognized thought leader in technology and the law.