

Privacy EXPECTATIONS

FOURTH AMENDMENT
STANDING BARS A PARTY
FROM CLAIMING INJURY FOR
SOMEONE ELSE'S PRIVACY
VIOLATION.

WRITTEN BY PIERRE GROSIDIER

THE FOURTH AMENDMENT PROTECTS “the right of the people to be secure in *their* persons, houses, papers, and effects[.]”¹ Two digital law cases out of the U.S. Court of Appeals for the 5th Circuit illustrate the Fourth Amendment’s standing principle, which states that an unreasonable search must infringe a

person’s own rights, not those of another person in a criminal matter.

Louisiana authorities expected Matthew Beaudion and Jessica Davis to run meth from Houston to Monroe, Louisiana.² They obtained a search warrant for the GPS coordinates of Davis’ cellphone for a 16-hour time window. Six specific coordinate requests to Davis’ cellular phone company allowed them to track and arrest the pair, search their car, and find the meth. Beaudion pleaded guilty to drug charges after the court denied his motion to suppress on the basis that the GPS tracking warrant was defective. He appealed, but the 5th Circuit affirmed.³

As the court demonstrated in a concise and enlightening history of the

Fourth Amendment’s origins under English and colonial law, a person must show the injury of a personalized interest to assert a Fourth Amendment claim.⁴ This injury can take the form of a physical intrusion in a protected space in which the person has a property interest, or a violation of the person’s subjective reasonable expectation of privacy. Here, the “place searched” was Davis’ phone’s GPS coordinates. The court rejected Beaudion’s argument that the search extended to his person because he was its target. A search is defined by its scope, not its target, and the warrant’s scope extended only to the GPS coordinates.⁵

Moreover, Beaudion had no legitimate expectation of privacy in Davis’ phone. It did not matter that he originally purchased the phone because he lost his interest in it when he gifted it to Davis, and his personal use of the phone in Davis’ presence was not sufficiently in evidence in the record to matter. Davis retained possession of the phone, was its primary user, and had



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her parents pay for its service. Even if Beaudion has an expectation of privacy, the court could not find that it was reasonable.⁶

The same result was issued in *United States v. Gauden*, a more recent case.⁷ Kentrell Gauden, a rapper with a prior felony conviction, was arrested on weapons charges. At trial, prosecutors offered incriminating videos recovered from a memory card showing Gauden illegally manipulating firearms. Gauden successfully suppressed the videos, but the 5th Circuit reversed, holding that Gauden had no protected interest in them.⁸

A third-party cameraman hired by Gauden's own company recorded the videos, which Gauden used for promotional purposes on social media. But Gauden never established a property interest in the videos, and the court rejected his argument that he retained such an interest because he exerted the right to select which videos to display. The cameraman owned both his camera and the memory card, and

the company paid for his services. Under Louisiana law, ownership in an entity does not convey ownership in the entity's property and, in any event, payment for videographic services does not automatically convey ownership in the work product.⁹

Additionally, it is well established under Fourth Amendment law that individuals have no legitimate expectation of privacy in information that they voluntarily surrender to third parties. Here, there was no evidence that Gauden intended to keep the recordings private. To the contrary, the videographer was tasked with following him around, as in reality TV, for promotional reasons. Gauden took the risk and could not complain that the videographer might release the videos, including those depicting him in public wielding weapons with his confederates.¹⁰ **TBJ**

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NOTES

1. U.S. Const. amend. VI (emphasis added).
2. *United States v. Beaudion*, 979 F.3d 1092, 1093–94 (5th Cir. 2020).
3. Beaudion did not challenge the constitutionality of his traffic stop in the trial court, erroneously so, it appears. *Id.* at 1101–02.
4. *Id.* at 1094–96.
5. *Id.* at 1097–99.
6. *Id.* at 1099.
7. 73 F.4th 390, 391 (5th Cir. 2023).
8. *Id.* at 391–92.
9. *Id.* at 393.
10. *Id.* at 394–95.



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