

Walsh v. Erie County Department of Job and Family Services.

240 F.Supp.2d 731 (2003)

In the United States District Court, N.D. Ohio, Western Division
January 22, 2003

Facts of the Case:

This is a civil rights case arising from the search of the home of the *PLAINTIFFS* Paul and Linda Walsh, against *DEFENDANTS* caseworkers Nycola Darnold, Lana Brown, the Erie County, Ohio, Department of Job and Family Services (ECDJFS), the Erie County Board of Commissioners, the City of Vermilion, Ohio, and three Vermilion police officers.

In November 2001, Erie County Department of Job and Family Services, or ECDJFS (Defendant), received a report that alleged children of Paul and Linda Walsh (Plaintiffs) were living in a home that was cluttered and overcrowded and that the children were developmentally delayed and without proper medical or educational care. ECDJFS assigned social worker Nycola Darnold (D) to the case. After Darnold learned of the complaint, she telephoned Matthew Work, an inspector with the Erie County Board of Health, to coordinate a visit to the Walsh residence.

Darnold (D) and caseworker Lana Brown (D) met Work outside the Walsh home. They approached the house; as they did so, they observed two five gallon buckets of a drywall compound, several boxes of clothes, and about 150 TTY devices (deaf telephones) located on the porch. In their opinion, the presence of these items confirmed the allegation in the anonymous report that the home was "cluttered."

When Mrs. Walsh (P) answered the door, (D) introduced herself and explained that ECDJFS (D) had received an anonymous complaint that the children were living in unsafe conditions. Darnold told Mrs. Walsh that it was part of her job to enter the home and ensure the children's safety. Mrs. Walsh refused to let the county workers into her home. She telephoned her husband, who was at work. Mr. Walsh asked Darnold if the county workers had a search warrant. Darnold said no, and according to Mr. Walsh, Darnold told him that if the plaintiffs refused access, Darnold would declare an emergency and forcibly remove the children from the home.

Mr. Walsh told Darnold that he was coming home. The county workers left to make other house visits. Mr. Walsh arrived home and spoke to a lawyer. Mr. Walsh told Darnold and Brown that he was not going to let them in the house without a search warrant. Darnold then called the Vermilion Police. Darnold continued to try and gain entry to the home by telling Mr. Walsh that she didn't need a warrant, they would remove their children unless they were granted entry, and that Mr. Walsh would face citations for every violation found in his home.

According to Mr. Walsh, when he again asked for a search warrant, Darnold insisted that she did not need a warrant, and that unless they let her in the house, that she could remove the children and that Mr. Walsh would face citations for any conditions found in the home. At some point, the plaintiffs agreed to allow Darnold to observe the children on the enclosed porch, but it was cold, and the children had on coats, so she was unable to assess their conditions.

The police arrived and told Mr. Walsh that if he continued being uncooperative he could “rest assured” that he would be cited for every potential violation they found. The police also threatened Mr. Walsh with being arrested for obstruction of official business. After a couple hours in which caseworkers attempted to get a warrant (and some other dramatic stuff happened like the Walsh’s tried to leave the house and allegedly were prevented from doing so by being blocked in by a police car) finally one police officer ended up yelling they had had enough and that he was about to arrest Mr. Walsh for obstruction. Mr. Walsh expressed that he did not want to be arrested, and the police officer told him the only way he would not be arrested was if he allowed everyone access to his house. Even though Darnold, Brown and Work did not actually hear Mr. Walsh agree to let everyone enter the premises, they assumed he had, and so everyone went inside.

Darnold's inspection encompassed cupboards, drawers, the refrigerator, and locked cabinets, which Mr. Walsh opened at her request. Darnold determined that there were enough beds for the children, there was an adequate food supply, and that knives and chemicals were stored out of the children's reach. She testified, however, that the house was so cluttered, they had to walk single file. Work testified that some boxes and paper were stacked on top of an electric heater, some electrical boxes had exposed wiring, and a water heater vent pipe was too close to insulation. Brown took photographs in the house, though Mr. Walsh claims he had asked her not to.

At the end of the inspection, Darnold concluded that there were no significant hazards. She told Mr. Walsh that she would send a list of suggestions for eliminating the clutter. Mr. Walsh was not taken into custody. The defendants took no further action against them.

The Walsh’s (P) claimed several violations, but the violation that is most relevant to Fourth Amendment rights related to searches and seizures is: