

Cnty. of Riverside v. McLaughlin

The County of Riverside combined probable cause determinations with arraignment procedures which, under County policy, had to be conducted within two days of arrest, excluding weekends and holidays. McLaughlin brought a 42 U.S.C. Section 1983 action alleging a violation of *Gerstein v. Pugh*.

The Court held that in order to satisfy *Gerstein's* promptness requirement, a jurisdiction that chooses to combine probable cause determinations with other pretrial proceedings must do so as soon as is reasonably feasible, but no later than 48 hours after arrest. However, a hearing within 48 hours may nonetheless violate *Gerstein* if the arrested individual can prove that his or her probable cause determination was delayed unreasonably. Courts evaluating the reasonableness of a delay must allow a substantial degree of flexibility, taking into account the practical realities of pretrial procedures. Where an arrested individual does not receive a probable cause determination within 48 hours, the burden of proof shifts to the government to show a bona fide emergency or other extraordinary circumstance, which cannot include intervening weekends or the fact that in a particular case it may take longer to consolidate pretrial proceedings.

Although the County of Riverside is entitled to combine probable cause determinations with arraignments, its regular practice exceeds the constitutionally permissible 48-hour period because persons arrested on Thursdays may have to wait until the following Monday before receiving a probable cause determination, and the delay is even longer if there is an intervening holiday.