

ILLINOIS PROSECUTOR SERVICES, LLC

PO Box 722, Carlinville, IL 62626
Phone: (217) 854-8041 Fax: (217) 854-5343
Website: www.ipsllonline.com
E-mail: don@ipsllonline.com



LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of October – 2025

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of October - 2025

People v. Clishaun Long, 2025 IL App (2d) 240237, August 11, 2025.

THE CASE: Officers conducted a warrantless search of the defendant's bag. Was the search legal?

FACTS: Clishaun Long was arrested and charged with a weapons violation. Prior to this trial, Long moved to suppress the firearm that had been found in his possession. At the hearing on Long's motion to suppress, the following occurred. A Six Flags' security supervisor testified that firearms are not permitted in Six Flags. The Officer further testified that there are signs informing guests of this fact when they drive into the park. As such, no guest may enter Six Flags without a security screening, which first entails passing through a metal detector that sets off an alarm if a "higher" metal density is detected on the guest's person or in a personal bag. The detector generates an image showing the location of the higher metal density, whether on the guest's person or in an accompanying bag. After the alarm is set off, security personnel determine the type of secondary screening that is appropriate. Depending on whether the metal object is detected on the guest's person or in a personal bag, the secondary screening entails scanning the guest's person with a hand wand or running the bag through an X-ray scanner to determine whether it contains any items prohibited by Six Flags. Images on the X-ray determine the next step in the screening process. If a guest does not want to proceed with a secondary screening, the individual is permitted to leave.

On the day in question, the Security Officer was alerted that a Six Flags' X-ray scanner was displaying an image of a gun in a guest's diaper bag. The Officer proceeded to the X-ray scanner and saw a clear image of a handgun on the scanner's screen. The Security Officer then took the bag and identified defendant Long as the guest who brought the bag to Six Flags. Long asked the Officer if he could take the gun back to his car. The Security Officer told him that he could not as the local police would determine if Long had a concealed carry license (CCL) or some other reason to allow him to return the weapon to his car. The Security Officer asked Long if he had a CCL. Long replied that he did not. The Security Officer testified that he never opened the bag. He waited with Long for the local police officers to arrive. He explained that the local Police Department had officers stationed at Six Flags in a small on-site office near the entrance. When local officers arrived, the security agent informed them that the bag was Long's and that there was a gun inside. He handed them the bag. The officers then escorted Long to their on-site office.

A local police officer then testified that after learning that Six Flags' security personnel might have discovered a weapon, two officers went to assist. It took them 10 to 20 seconds to get from their office to the Six Flags security gate. As soon as the Officers got to the security gate, they heard Long saying that he had a gun in the bag. They heard Six Flags' security personnel asking Long if he had a CCL or a Firearm Owners Identification (FOID) card and Long responding that he had neither. A local Officers then asked Long and his wife if either of them had a CCL or a FOID card. They confirmed that they did not. The Officer saw that Six Flags' security personnel had a bag, which they said contained a weapon. The Officer took the bag and escorted Long and his wife to the local Police Department's on-site office. The Officer considered Long, and his wife "detained" at that point "for investigation." Long did not give the officers his name, but they learned it from his wife and confirmed that Long was not legally allowed to possess a gun.

At the time of the incident, the Officer was wearing a body camera. A video recording from the camera was admitted into evidence and played at the suppression hearing. The video showed, inter alia, a Six Flags security officer hand a bag to a local police officer. That officer brought the bag to the Police Department's on-site office and placed it on the floor behind a desk. There was a bench running along the wall opposite the desk. Throughout the encounter shown on the video recording, Long was either seated on or standing directly in front of the bench. Eventually, the Officer picked up the bag and took it to a different room. A few minutes later—roughly 20 minutes after Long was brought into the office—the Officers, without first obtaining a warrant, began removing various items from the bag, including cloths or towels, a zippered pocketbook or wallet, and plastic bags containing various objects. They also retrieved and opened a zippered case with a loaded handgun inside. The Officer testified that Long's Social Security card was found in the case next to the weapon.

At the close of the hearing, the trial court granted Long's motion to suppress evidence. The trial court found that the warrantless search of the bag implicated Long's fourth amendment rights. The trial court further found that none of the exceptions to the warrant requirement applied. Following the denial of their motion to reconsider, the People filed a timely notice of appeal.

ARGUMENT: On appeal, the People argued that the trial court erred in concluding that the warrantless search of the bag was unlawful. The People contended that the fourth amendment was not implicated because Long voluntarily consented to the search of his belongings by security in order to enter the park. The People further insisted that the police officers did not need a warrant to search Long's bag once they had probable cause to believe that it contained a firearm.

In response, Long did not dispute that he consented to his bag being screened by Six Flags' security personnel. He also did not deny that his bag contained a gun and that the police were justified in seizing his bag while they investigated. He insisted, however, that he never consented to the local police officers searching his bag and that their warrantless search violated his fourth amendment rights. He therefore maintained that the trial court properly granted his motion to suppress.

THE LAW: The fourth amendment protects a person only to the extent that the person has a subjective expectation of privacy in the area searched that society recognizes as reasonable. Whether one has a legitimate expectation of privacy in an area searched is measured by an objective standard drawn from common experience. The burden of establishing a legitimate expectation of privacy lays with the defendant. Whether a defendant has a legitimate expectation of privacy is determined by the totality of the circumstances of the particular case.

QUESTION #1: Did long have a reasonable expectation of privacy concerning the diaper bag he was carrying as he attempted to enter Six Flags?

FINDINGS: In response to this question, the appellate court concluded that it was well-recognized that a person does not have a "reasonable expectation of absolute privacy" in certain places "where all members of the public [are] subject to a routine search." "[B]y presenting oneself at a sensitive facility's security checkpoint, one implicitly consents to the screening and search of one's belongings." Accordingly, "when a person with notice of such impending search seeks entry into such a restricted area, he or she relinquishes any reasonable expectation of privacy and impliedly consents to the search." In this case, the Court noted that Six Flags posts signs stating that firearms are not permitted in the park. Before entering the park, Six Flags requires all guests to pass through a metal detector screening. As the screening area is situated immediately in front of the park entrance, it is obvious to all guests that they must submit to that screening before entering the park. If, upon reaching that security check, a guest elects to proceed through it, then he necessarily "relinquishes any reasonable expectation of privacy and impliedly consents to the search." Therefore, the Court held that by attempting to enter Six Flags, Long consented to a search of his person and any property he was attempting to bring into Six Flags. Therefore, Long had no reasonable expectation of privacy concerning the diaper bag he attempted to bring into Six Flags; at least as it applied to the Six Flags security personnel.

QUESTION #2: Long argued that he had a right to limit the type of search that was conducted by the Six Flags security personnel. Specifically, he argued that he only consented to walking through a metal detector and not an X-ray of the diaper bag. Did the appellate court agree with this argument?

FINDINGS: In response to this issue, the appellate court noted that Six Flags was not an open town fully accessible and available to all commerce. It was private property that consisted of an amusement park to which admission is charged, and no one is permitted through the outer gates of Six Flags except by consent of the owners. As such, in a relationship between an amusement park and a guest, the matter of consent resides with the owners of an amusement park. For the owners of the park to consent to someone entering its private property, it may require that person to consensually undergo a search for firearms or other prohibited items. The Court acknowledged that Six Flags' search consisted of only a metal detector and an X-ray machine. However, the Court held that does not mean that Long consented to only those type of searches.

QUESTION #3: Did the X-ray examination of Long's diaper bag violate his Fourth Amendment rights?

FINDINGS: The Appellate Court noted that the Fourth Amendment applies only to government action. A search by a private person does not violate the Fourth Amendment. Therefore, the search conducted by Six Flags, including the use of an X-ray did not violate the Fourth Amendment.

QUESTION #4: Did the search by the local Officers of Long's diaper bag violate the Fourth Amendment?

FINDINGS: The Court declared that the fourth amendment does not prohibit the government from using information discovered by a private search, because the private search has already frustrated any expectation that the information will remain private. The Fourth Amendment is implicated only if the authorities use information with respect to which the expectation of privacy has not already been frustrated. In such a case the authorities have not relied on what is in effect a private search, and therefore presumptively violate the Fourth Amendment if they act without a warrant.' Thus, where the

government uses privately discovered information to investigate a crime without first obtaining a warrant, the fourth amendment question is whether the investigation ‘exceeded the scope of the private search.’

In this case, the Court noted that Long consented to his bag being searched by Six Flags’ security personnel. Therefore, any expectation of privacy that Long may have possessed had already been relinquished by the time that the local police officers searched his bag. Further, the police officers’ subsequent search revealed no new material information but rather confirmed what they already knew—that defendant had a gun in his bag. Thus, the police officers’ search of defendant's bag did not exceed the scope of Six Flags’ search and did not violate Long's Fourth Amendment rights.

CONCLUSION: The appellate court concluded that it was Long's burden to prove that the search at issue was unlawful in his motion to suppress. In order to meet that burden, he had to “demonstrate that he *** personally ha[d] an expectation of privacy in the place searched and that his *** expectation [was] reasonable.” According to the Court, Long did not have a reasonable expectation of privacy in the bag once he consensually submitted it for screening. As such, the trial court erred in granting Long's motion to suppress the evidence recovered from the bag.

EDITOR’S NOTE: **This is a majority opinion. The dissenting Justice concluded the following:** *“This is a straightforward case in which a police search exceeded the scope of a private search without a warrant or an exception to the fourth amendment's warrant requirements. The police here had ample time to obtain a search warrant or simply ask for consent to search; instead, they proceeded to open a closed bag and search all of its contents—including a smaller closed container which they also opened—in order to find the gun in question. In fact, police were merely told about the gun by private security; they were not shown an X-ray image, nor did they view any image of the gun before conducting their search. Simply stated, under these circumstances, the police search violated the fourth amendment.*

However, instead of affirming the trial court's suppression of the fruits of this illegal search consistent with the facts and existing precedent, the majority now declares that every person in Illinois who submits a container of their personal effects for an X-ray by private security not only gives up all expectation of privacy in such effects but also impliedly consents to a full and invasive manual search of all items in the container by police—whether or not police observe the X-ray search or view its resulting images. The facts of this case do not support such an unwarranted and unwise expansion of fourth amendment exceptions, which portend a significant potential contraction of individuals’ rights to be free from unreasonable government searches in public accommodations that employ or contract with private security guards.

[IT WILL BE INTERESTING TO SEE IF THIS CASE IS APPEALED TO THE ILLINOIS SUPREME COURT.]

QUIZ QUESTIONS FOR THE MONTH OF OCTOBER – 2025

People v. Clishaun Long, 2025 IL App (2d) 240237, August 11, 2025.

1. When a defendant moves to suppress evidence that has been seized by the police, the People bear the burden of proving that the evidence in question was lawfully seized.
 - a. True.
 - b. False.

2. In this case, after an X-ray examination revealed the presence of a firearm in the defendant's diaper bag, the Six Flags security officer seized the bag and refused to allow the defendant to return the bag to his car. Did this conduct of the security officer violate Long's Fourth Amendment rights?
 - a. Yes.
 - b. No.

3. Long was attempted to enter into Six Flags. Before he was allowed to enter, Long was required to walk through a metal detector. Was Long's constitutional rights violated when he was subjected to such screening?
 - a. Yes.
 - b. No.

4. The local Officers failed to obtain a warrant before they conducted a search of Long's diaper bag. This Court concluded that this conduct on the part of the Officers violated Long's Fourth Amendment rights.
 - a. True.
 - b. False.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF OCTOBER – 2025

People v. Clishaun Long, 2025 IL App (2d) 240237, August 11, 2025.

1. When a defendant moves to suppress evidence that has been seized by the police, the People bear the burden of proving that the evidence in question was lawfully seized.

b. False. A defendant bears the burden of proving a search was unlawful in a motion to suppress. 725 ILCS 5/114-12(b).

2. In this case, after an X-ray examination revealed the presence of a firearm in the defendant's diaper bag, the Six Flags security officer seized the bag and refused to allow the defendant to return the bag to his car. Did this conduct of the security officer violate Long's Fourth Amendment rights?

b. No. "The fourth amendment applies only to government action. *United States v. Jacobsen*, 466 U.S. 109, 113 [104 S. Ct. 1652, 1065, 80 L.Ed.2d 85, 94] *** (1984). A search by a private person does not violate the fourth amendment. *Jacobsen*, 466 U.S. at 115 [104 S. Ct. at 1657, 80 L.Ed.2d at 95] ***.

3. Long was attempted to enter into Six Flags. Before he was allowed to enter, Long was required to walk through a metal detector. Was Long's constitutional rights violated when he was subjected to such screening?

b. No. This Court ruled that Long consented to a reasonable search of his person when he requested to be allowed to enter Six Flags.

4. The local Officers failed to obtain a warrant before they conducted a search of Long's diaper bag. This Court concluded that this conduct on the part of the Officers violated Long's Fourth Amendment rights.

b. False. According to the Court, Long did not have a reasonable expectation of privacy in the bag once he consensually submitted it for screening. As such, the trial court erred in granting Long's motion to suppress the evidence recovered from the bag.