
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TIMOTHY D. THOMAS,

Plaintiff,

v.

TIMOTHY D. SCHAEFFER, in his
official capacity as Executive Director
of the Pennsylvania Fish and Boat
Commission, and TY C. MOON, in his
official capacity as Waterways
Conservation Officer of the
Pennsylvania Fish and Boat
Commission,

Defendants.

Case No.

ELECTRONICALLY FILED

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

JURY DEMANDED

COMPLAINT

INTRODUCTION

1. This is a constitutional challenge to a Pennsylvania statute that grants officers of the Pennsylvania Fish and Boat Commission (the Commission) unlimited authority to enter the curtilage of Pennsylvanians' homes to search for evidence of potential state fishing and boating offenses. 30 Pa. C.S.A. § 901(a)(7). That statute authorizes the Commission's waterways conservation officers (WCOs) to "[e]nter upon any land or water" to investigate potential violations of state fishing laws, including the curtilage of peoples' homes, without the property owner's consent, probable cause, or a warrant. Under 30 Pa. C.S.A. § 901(a)(7), WCOs are allowed to conduct general searches around Pennsylvanians' homes—alongside houses, near windows, in backyards—without any restrictions.

2. Plaintiff Timothy Thomas has been subjected to those general searches at his home multiple times since 2023. Tim lives in a lakeside cabin in Susquehanna, Pennsylvania, that he purchased with his late wife, Stephanie, in 2014. When Stephanie was diagnosed with cancer in 2022, the cabin became a place of privacy and respite while she underwent cancer treatment. The Thomases have communicated their desire for privacy and security by placing several "No Trespassing" signs around their home.

3. Relying on 30 Pa. C.S.A. § 901(a)(7), WCO Ty Moon has entered and searched the curtilage of Tim’s cabin at least twice since May 2023, without consent or a warrant, to search for evidence of potential state fishing and boating offenses. Each entry and search resulted in Tim being charged with a violation. Each time, Tim was vindicated.

4. The warrantless entries and searches of curtilage authorized by 30 Pa. C.S.A. § 901(a)(7) are unconstitutional. The Fourth Amendment to the U.S. Constitution protects “[t]he right of the people to be secure in their . . . houses . . . against unreasonable searches and seizures,” which extends to the home’s curtilage. Accordingly, warrantless entries and searches of the home’s curtilage are presumptively unreasonable. Yet 30 Pa. C.S.A. § 901(a)(7) is a statewide general warrant authorizing officers to search the curtilage of Pennsylvanians’ homes without restriction. To ensure that those unconstitutional searches come to an end, Plaintiff brings this lawsuit to declare unconstitutional 30 Pa. C.S.A. § 901(a)(7), and to enjoin Defendants from relying on that statute to conduct future warrantless searches of peoples’ curtilage.

JURISDICTION AND VENUE

5. This is a civil rights lawsuit under 42 U.S.C. § 1983, as well as the Fourth and Fourteenth Amendments to the United States Constitution.

6. This Court has jurisdiction under 28 U.S.C. §§ 1331, 2201, and 2202 because the claims arise under the United States Constitution.

7. Venue is proper in this Court under 28 U.S.C. § 1391 because all defendants reside in Pennsylvania and all or a substantial part of the events or omissions giving rise to the claims occurred in Pennsylvania.

THE PARTIES

8. Plaintiff Timothy Thomas owns and permanently resides at a house located at 308 Minnow Dr., Susquehanna, Pennsylvania, adjacent to Butler Lake. Tim and his wife, Stephanie, began living at 308 Minnow Dr. in 2021. Stephanie passed away in June 2024, and Tim continues to live at 308 Minnow Dr. today. Since at least 2023, a Waterways Conservation Officer employed by the Pennsylvania Fish and Boat Commission has entered and searched the curtilage of Tim’s house at least twice without his consent or a warrant. Tim wants these nonconsensual, warrantless searches to stop.

9. Defendant Timothy D. Schaeffer is the Executive Director of the Pennsylvania Fish and Boat Commission (the “Commission”), the agency responsible for enforcing Pennsylvania’s fishing and boating regulations. 30 Pa. C.S.A. § 321. He is sued in his official capacity under *Ex parte Young*, 209 U.S. 123 (1908). In his official capacity as Executive Director of the Commission, Defendant

Schaeffer is in “charge of all activities under the jurisdiction of the commission,” and has the power to “direct, supervise, and control all waterways patrolmen, deputy waterways patrolmen and employees of the commission.” 30 Pa. C.S.A. § 302(a). Since at least 2023, Defendant Schaeffer has directed, supervised, and controlled employees of the Commission who entered and searched the curtilage of Plaintiff’s home at least twice without Plaintiff’s consent or a warrant. Those warrantless searches will continue indefinitely unless enjoined by this Court.

10. Defendant Ty C. Moon is a waterways conservation officer (WCO) employed by the Commission. He is sued in his official capacity under *Ex parte Young*, 209 U.S. 123 (1908). In his official capacity as a WCO, Defendant Moon has “the power and duty to . . . [e]nter upon any land or water in the performance of [his] duties.” 30 Pa. C.S.A. § 901(a)(7). Since at least 2023, Officer Moon has entered and searched the curtilage of Plaintiff’s home at least twice without Plaintiff’s consent or a warrant. Those warrantless searches will continue indefinitely unless enjoined by this Court.

BACKGROUND

TIM’S HOME IS A PLACE OF PRIVACY AND PEACE

11. Tim owns a cabin alongside Butler Lake at 308 Minnow Dr., Susquehanna, PA (the “Cabin”).

12. Tim and his wife, Stephanie, bought the Cabin in 2014. They renovated it over the following years, and began using it as their primary residence for most of the year.

13. After Stephanie was diagnosed with cancer in 2022, the Cabin became a place of respite while she underwent cancer treatment. Because the Cabin is a single-story home, it was more comfortable for Stephanie to navigate because she was not ambulatory during cancer treatment.

14. The Cabin is located in a quiet area at the end of a long dirt road. Below is a true and accurate picture of the road leading to Tim's Cabin:



15. The only legal way for visitors to reach the Cabin is by entering Tim's private driveway. A true and accurate picture of the entrance to Tim's driveway and the front of the Cabin is below:



16. The Cabin's front door, the home's primary entrance, is visible from Tim's driveway.

17. To reach Tim's backyard, one must walk to the end of his driveway, past the Cabin's front door, and through a several-foot gap between foliage and the side of the Cabin.

18. Entering Tim's backyard requires one to pass within several feet of the Cabin's side windows, including a bathroom window. A true and accurate picture of the path from the driveway to Tim's backyard is below:



19. The Cabin's porch faces out into Tim's backyard. On the porch, there is a door to the Cabin. While standing on the porch, one can see Tim's living room through several windows.

20. The Thomases have never given any strangers permission to enter the Cabin or the property at 308 Minnow Dr.

21. Prior to May 2023, the Cabin was a place of privacy and peace for the Thomases. They both considered the Cabin to be their safe space and retreat while Stephanie underwent cancer treatment. The Thomases' feelings of privacy and security in their property were important to them.

Wildlife Conservation Officers employed by the Pennsylvania Fish and Boat Commission have statutory authority to enter the curtilage of Pennsylvanians' homes without an owner's consent or a warrant.

22. Pennsylvania regulates fishing and boating through the Commission. 30 Pa. C.S.A. § 322.

23. The Commission employs WCOs throughout Pennsylvania to enforce the state's fishing and boating regulations. 30 Pa. C.S.A. § 302(a).

24. WCOs are "police officers who are also trained in fisheries conservation and watercraft safety" and patrol "streams, rivers and lakes on foot, in vehicles and on boats" to "enforce fishing, boating and environmental laws and regulations." PFBC, *Bureau of Law Enforcement*, <https://www.fishandboat.com/About-Us/AgencyOverview/Law-Enforcement/Pages/default.aspx> (accessed July 31, 2024).

25. WCOs have statutory authority to "[e]nter upon *any* land or water" to search for evidence of potential fishing and boating violations, including on private

property, without the property owner's consent, probable cause, or a warrant. 30 Pa. C.S.A. § 901(a)(7) (emphasis added).

26. While a Pennsylvania statute applicable to game wardens employed by the Pennsylvania Game Commission explicitly exempts "curtilage" from areas subject to warrantless entry and search, 34 Pa. C.S.A. § 901(a)(2), the statute applicable to WCOs contains no such restriction, 30 Pa. C.S.A. § 901(a)(7).

27. Under 30 Pa. C.S.A. § 901(a)(7), WCOs have unrestrained authority to enter onto private property without the property owner's consent, probable cause, or a warrant, even when that property is posted with "No Trespassing" signs.

28. Under 30 Pa. C.S.A. § 901(a)(7), WCOs have unrestrained authority to enter onto the curtilage of dwelling houses without the property owner's consent, probable cause, or a warrant.

29. The Commission does not limit, by either policy or practice, the authority of WCOs to enter onto private property that is posted with "No Trespassing" signs without the property owner's consent, probable cause, or a warrant.

30. The Commission does not limit, by policy or practice, the authority of WCOs to enter onto the curtilage of dwelling houses without the property owner's consent, probable cause, or a warrant.

31. The Commission does not limit, by policy or practice, the timing, frequency, duration, or scope of entries or searches of private property conducted by WCOs pursuant to 30 Pa. C.S.A. § 901(a)(7).

32. The Commission does not require, by policy or practice, WCOs to obtain approval from a supervisor before entering and searching private property pursuant to 30 Pa. C.S.A. § 901(a)(7).

33. On information and belief, WCOs routinely enter and search the curtilage of Pennsylvanians' homes without the property owner's consent, probable cause, or a warrant, pursuant to 30 Pa. C.S.A. § 901(a)(7).

In May 2023, WCO Moon Enters and Searches the Thomases' Property Without Consent or a Warrant

34. The property at 308 Minnow Dr. includes frontage on Butler Lake.

35. Tim keeps a pontoon boat in his backyard or moored to a small private dock that sits approximately 75 feet from the Cabin.

36. Since acquiring the Cabin, Tim regularly fishes on Butler Lake from his pontoon boat.

37. Tim has only ever fished on Butler Lake for recreation. He receives no economic benefit from fishing on Butler Lake.

38. Whenever Tim has fished on Butler Lake, he has always had a valid fishing license.

39. Whenever Tim has fished on Butler Lake, he has abided by all applicable fishing regulations.

40. On May 13, 2023, Stephanie was home alone at the Cabin when she heard an unknown individual knock loudly on the front door.

41. At the time, Stephanie did not know that the individual who was knocking on the front door was WCO Ty C. Moon.

42. Stephanie did not answer the front door both because she was afraid and because she was non-ambulatory at that stage in her cancer treatment.

43. When no one answered the front door, WCO Moon began pounding on the back door of the Cabin.

44. To reach the back door of the Cabin, WCO Moon walked to the end of the Thomases' driveway, past the Thomases' "No Trespassing" signs, and through a several-foot gap between foliage and the side of the Cabin. WCO Moon then walked within several feet of the Cabin's side windows, including a bathroom window, into the back yard, and up several steps to the covered back porch.

45. While pounding on the front and back doors of the Cabin, WCO Moon yelled "I know you're in there!" and "I'm going to call the police!"

46. Stephanie did not answer the back door because, again, she was afraid and was non-ambulatory at that stage in her cancer treatment.

47. After WCO Moon received no response from within the Cabin, he entered the Thomases' backyard and took pictures of the Cabin, the Thomases' vehicle, and their boat that was moored to their private dock approximately 75 feet from the Cabin.

48. When WCO Moon entered and searched the Thomases property on May 13, 2023, he was searching for evidence of potential fishing violations pursuant to 30 Pa. C.S.A. § 901(a)(7).

49. WCO Moon did not have Tim's or Stephanie's consent to enter and search their property on May 13, 2023.

50. WCO Moon did not have a warrant to enter and search the Thomases' property on May 13, 2023.

51. On May 14, 2023, the following day, the Thomases pulled over while out driving so that Tim could pick flowers from the side of the road for Stephanie. While the Thomases were pulled over, WCO Moon stopped his vehicle in front of them, exited his vehicle, and told the Thomases that they were the people that he had "been chasing," and that he would "get to the bottom of things."

52. The Thomases' confrontation with WCO Moon on May 14, 2023 left them confused, frustrated, and insulted.

53. On May 18, 2023, the Thomases received a citation in the mail, which alleged that, on May 15, Tim eluded an officer while fishing without a license (“May Citation”).

54. The allegations in the May Citation were not true. Tim has never attempted to elude an officer and has never fished without a license.

55. On June 9, 2023, Tim submitted a complaint to the Commission disputing the allegations contained in the May Citation and criticizing WCO Moon’s conduct.

56. A few days later, Tim received a call from Lt. Col. Tom Edwards informing Tim that the charges in the May Citation would be dismissed.

57. On June 14, 2023, the Susquehanna County Commonwealth Court dismissed the charges contained in the May Citation.

58. As a result of WCO Moon’s May 13 entry and search of their property, the Thomases felt less secure in the privacy of their Cabin and property. The Thomases also felt frustrated that their rights were violated, and they were concerned that similar entries and searches would happen again.

59. In May 2023, following WCO Moon’s entry and search of the Thomases’ property, Tim installed two additional “No Trespassing” signs with orange lettering—one at the entrance to the Cabin’s driveway and one at the

entrance to the backyard. Those “No Trespassing” signs are visible from the road to the Cabin. A true and accurate picture of those “No Trespassing” signs is below:



In August 2023, WCO Moon again enters and searches the Thomases’ property without consent or a warrant.

60. On August 12, 2023, Tim was fishing on Butler Lake from his pontoon boat.

61. At the same time, WCO Moon was surreptitiously watching Tim through a pair of binoculars from a private hunting club’s property.

62. When Tim began to bring the pontoon boat back to shore, WCO Moon drove out of the hunting club’s property and parked his vehicle approximately 200 yards down the road from the Cabin.

63. WCO Moon approached the Cabin from the dirt road, walked to the end of the Thomases' driveway, past the front door, past four "No Trespassing" signs, and through a several-foot gap between foliage and the side of the Cabin.

64. As WCO Moon walked alongside the Cabin towards the backyard, he passed within three feet—and at eye level—of the bathroom window, shocking Stephanie who was taking a bath at the time. A true and accurate picture of the Cabin bathroom and side window are below:



65. WCO Moon continued walking alongside the Cabin, crossed the Thomases' backyard, and approached Tim, who was standing approximately 75 feet from the Cabin at the private dock.

66. WCO Moon accused Tim of fishing with eight rods, in violation of Pennsylvania law.

67. Tim informed WCO Moon that he was trespassing on the Thomases' property and offered to continue the conversation on the road rather than on the property. Tim and WCO Moon walked together out to the road.

68. Once on the road, Tim complied with WCO Moon's order to provide his driver's license and fishing license.

69. WCO Moon informed Tim that he would be conducting an inspection. Although Tim protested, WCO Moon returned to the Thomases' private dock by the same path he had previously taken—past no trespassing signs and the Cabin's bathroom window—and then returned to the road.

70. For a third time, WCO Moon entered the Thomases' property and walked to their private dock, again over Tim's protests, this time seizing eight of Tim's fishing rods.

71. As a result of the August 12 entry and search, WCO Moon issued Tim a citation for fishing with eight rods in violation of Pa. Admin. Code § 63.6(a) (“August Citation”).

72. Tim did not and has never fished with eight rods. Tim has multiple rods stored on the deck and in the boat while he fishes, but he has never used more than three lines for fishing.

73. On November 2, 2023, Tim had a pro se hearing on the August Citation before Magisterial District Court 34-3-02. Tim was convicted of the violation and ordered to pay \$354.

74. Tim appealed that conviction to the Susquehanna County Court of Common Pleas. On June 5, 2024, following a bench trial, Tim was found not guilty of the offense alleged in the August Citation.

75. When WCO Moon entered and searched the Thomases property on August 12, 2023, he was searching for evidence of potential fishing violations pursuant to 30 Pa. C.S.A. § 901(a)(7).

76. WCO Moon did not have Tim's or Stephanie's consent to enter and search their property on August 12, 2023.

77. WCO Moon did not have a warrant to enter and search the Thomases' property on August 12, 2023.

78. As a result of WCO Moon's August 12 entry and search of their property, the Thomases felt less secure in the privacy of their Cabin and property. The Thomases also felt frustrated that their rights were violated. The Thomases

were concerned that similar entries and searches would happen again, especially because four “No Trespassing” signs on the Thomases’ property, including two added in May 2023, were ineffective at preventing WCO Moon’s August entry and search.

INJURY TO PLAINTIFF

79. Tim’s ability to enjoy the Cabin and his property are important to him. He does not feel that he can fully enjoy the Cabin and his property if strangers, including WCOs, can enter the Cabin’s curtilage without his permission.

80. Prior to May 13, 2023, Tim spent time and money attempting to discourage strangers from trespassing onto the curtilage of his home by placing two “No Trespassing” signs on his property.

81. On May 13, 2023, WCO Moon entered and searched the curtilage of Tim’s home without consent or a warrant despite the two visible “No Trespassing” signs on Tim’s property.

82. Between May 13, 2023 and August 12, 2023, Tim spent additional time and money attempting to discourage strangers from trespassing onto the curtilage of his home by placing two additional “No Trespassing” signs on his property.

83. Between May 13, 2023 and August 12, 2023, Tim complained to the Commission about the May 13 entry and search of the curtilage of his home.

84. On August 12, 2023, WCO Moon entered and searched the curtilage of Tim's home without consent or a warrant despite the four visible "No Trespassing" signs on Tim's property and his complaint to the Commission.

85. Defendants will continue to ignore all of Tim's attempts to keep strangers from trespassing on the curtilage of his home because 30 Pa. C.S.A. § 901(a)(7) allows them to enter and search Tim's curtilage without limitation or justification.

86. Defendants' repeated warrantless entries and searches of Tim's curtilage have harmed his sense of security and privacy in the Cabin.

87. Defendants' repeated warrantless entries and searches of Tim's curtilage have harmed his ability to use and enjoy the Cabin.

88. Pursuant to 30 Pa. C.S.A. § 901(a)(7), Defendants have a policy and practice of entering and searching the curtilage of Pennsylvanians' homes without any evidence that a law is being violated.

89. Pursuant to 30 Pa. C.S.A. § 901(a)(7), Defendants have entered and searched the curtilage of Tim's home at least twice since May 2023, without any evidence that Tim was engaged in illegal activity.

90. Tim has been fishing recreationally on Butler Lake with a valid fishing license for more than three years.

91. Tim intends to continue fishing recreationally on Butler Lake with a valid fishing license for the indefinite future.

92. Tim faces a real and concrete threat that Defendants will continue to enter and search the curtilage of his home in the future simply because he fishes on Butler Lake.

93. Defendants' policy and practice of searching the curtilage of Pennsylvanians' homes pursuant to 30 Pa. C.S.A. § 901(a)(7) is triggered by property owners simply living near a body of water.

94. Tim has lived at the Cabin, which has frontage on Butler Lake, for three years.

95. Tim intends to continue living at the Cabin for the indefinite future.

96. Tim faces a real and concrete threat that Defendants will enter and search the curtilage of his home in the future simply because the Cabin has frontage on Butler Lake.

97. Defendants have a policy and practice of patrolling, surveilling, entering, and searching the curtilage of Pennsylvanians' homes located on and near Butler Lake, pursuant to 30 Pa. C.S.A. § 901(a)(7).

98. Because Defendants' have entered and searched the curtilage of Tim's home without his consent or a warrant, and are empowered by 30 Pa. C.S.A. §

901(a)(7) to do so whenever they wish, Tim feels insecure on his own property even though he is following the law.

99. The threat of future entries and searches on the curtilage of Tim's home have reduced his willingness to bring invited guests to the Cabin out of fear that they are being watched. Additionally, Tim does not feel that he can adequately safeguard himself or his guests due to the threat of future entries and searches on the curtilage of his home.

100. Tim will continue to suffer these harms for as long as Defendants are authorized to search the curtilage of Pennsylvanians' homes without consent or a warrant under 30 Pa. C.S.A. § 901(a)(7).

101. But for Defendants' policy and practice of searching the curtilage of Pennsylvanians' homes without consent or a warrant under 30 Pa. C.S.A. § 901(a)(7), Tim would not have suffered any of these harms in the past and would suffer none of them in the future.

CLAIM

COUNT I: FOURTH AMENDMENT VIOLATION

102. Plaintiff incorporates and realleges each and every allegation contained in Paragraphs 1 through 101 of this Complaint as if fully set forth herein.

103. The Fourth Amendment to the United States Constitution provides: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

104. The Fourth Amendment forbids unreasonable searches of a person’s house, which extends to the house’s curtilage.

105. Warrantless entries and searches of a home’s curtilage are always unreasonable unless a historically recognized exception to the warrant requirement applies.

106. 30 Pa. C.S.A. § 901(a)(7) authorizes the Commission, through WCOs that it employs throughout Pennsylvania, to “[e]nter upon any land or water in the performance of their duties.”

107. Unlike 34 Pa. C.S.A. § 901(a)(2), which explicitly exempts “curtilage” from the areas that game wardens employed by the Pennsylvania Game Commission may enter without a warrant, 30 Pa. C.S.A. § 901(a)(7) grants WCOs complete and total authority to enter and search all private property without a warrant, including the curtilage of Pennsylvanians’ homes.

108. Defendants have a policy and practice of entering and searching the curtilage of Pennsylvanians' homes, pursuant to 30 Pa. C.S.A. § 901(a)(7), without homeowners' consent.

109. Defendants have a policy and practice of entering and searching the curtilage of Pennsylvanians' homes, pursuant to 30 Pa. C.S.A. § 901(a)(7), without a warrant.

110. Pursuant to 30 Pa. C.S.A. § 901(a)(7), Defendants entered and searched the curtilage of Plaintiff's home on May 13, 2023, without consent, a warrant, or a historically recognized exception to the warrant requirement.

111. Pursuant to 30 Pa. C.S.A. § 901(a)(7), Defendants entered and searched the curtilage of Plaintiff's home on August 12, 2023, without consent, a warrant, or a historically recognized exception to the warrant requirement.

112. Unless 30 Pa. C.S.A. § 901(a)(7) is declared unconstitutional and permanently enjoined, Plaintiff faces a real and concrete threat that Defendants will enter and search the curtilage of his home in the future without consent, a warrant, or a historically recognized exception to the warrant requirement.

113. Unless 30 Pa. C.S.A. § 901(a)(7) is declared unconstitutional and permanently enjoined, Plaintiff will suffer continuing and irreparable harm.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests relief as follows:

- A. An entry of judgment declaring that 30 Pa. C.S.A. § 901(a)(7) violates the Fourth Amendment to the United States Constitution, both on its face and as applied to the Plaintiff;
- B. A permanent injunction barring Defendants from relying on 30 Pa. C.S.A. § 901(a)(7) to enter or search the curtilage of homes without a warrant;
- C. An award of attorneys' fees, costs, and expenses in this action pursuant to 42 U.S.C. § 1988; and,
- D. All further legal and equitable relief as the Court may deem just and proper.

Dated: September 23, 2024

Respectfully submitted,

/s/ Douglas P. Thomas

Douglas P. Thomas

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**Pro hac vice petitions to be filed*

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