07 (La. App. 1st Cir. 1978) (emphasis added). Davis presented evidence that, on the day of the accident, Dynamic's foreman ordered Davis to replace the crane winch on Dynamic's 86B platform. But Davis does not present any evidence that Dynamic ordered him to make a personnel-basket transfer to the 86A platform in high winds. To the contrary, it is undisputed that Davis *requested* a personnel-basket transfer to the 86A platform. Davis admitted at his deposition that he could have exercised his stop work authority if he "felt it too unsafe to do that transition from the platform to the boat to the 86A [platform]." Dynamic was "entitled to rely on the expertise of its independent contractor" in operating the personnel-basket transfers. *Hawkins*, 766 F.2d at 908. Dynamic did not have the duty to supervise to ensure that its "independent contractor performs its obligations in a reasonably safe manner." *Id.* Even accepting Davis's evidence as true and viewing it in the light most favorable to him, Dynamic did not *authorize*—either expressly or impliedly—an unsafe working condition that caused injury to Davis.

IV

We AFFIRM the judgment of the district court.

Lynn ROWELL, doing business as Beaumont Greenery; Micah P. Cooksey; MPC Data and Communications, Incorporated; Mark Harken; NXT Properties, Incorporated; Paula Cook; Montgomery Chandler, Incorporated; Shonda Townsley; Townsley Designs, L.L.C., Plaintiffs–Appellants

v.

Leslie L. PETTIJOHN, in her official capacity as Commissioner of the Office of Consumer Credit Commissioner of the State of Texas, Defendant–Appellee

No. 15-50168

United States Court of Appeals,
Fifth Circuit.

FILED May 25, 2017

Appeal from the United States District Court for the Western District of Texas, Lee Yeakel, U.S. District Judge

Deepak Gupta, Gupta Wessler, P.L.L.C., Washington, DC, Richard Lyle Coffman, Coffman Law Firm, Beaumont, TX, for Plaintiffs–Appellants.

Evan Scott Greene, Office of the Solicitor General for the State of Texas, Maria Amelia Calaf, H. Melissa Mather, Office of the Attorney General for the State of Texas, Austin, TX, for Defendant–Appellee.

Paul M. Sherman, Samuel B. Gedge, Institute for Justice, Arlington, VA, for Amicus Curiae Institute for Justice.

Richard Alan Arnold, Esq., James T. Almon, Esq., William Jay Blechman, Esq., Kenny Nachwalter, P.A., Miami, FL, for Amici Curiae HEB Grocery Company, L.P., Kroger Company, Walgreen Company, Albertsons, L.L.C., Safeway, Incorporated, Hy–Vee, Incorporated.

Daniel Adam Small, Cohen Milstein Sellers & Toll, P.L.L.C., Washington, DC, for Amici Curiae Consumer Action, National Association of Consumer Advocates, National Consumers League, United States

Public Interest Research Group, TexPIRG.

Jonathan Jared Ihrig, Credit Union National Association, Washington, DC, for Amicus Curiae Credit Union National Association.

Before DAVIS, BARKSDALE, and DENNIS, Circuit Judges.

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

PER CURIAM:

In *Rowell v. Pettijohn*, 816 F.3d 73 (5th Cir. 2016), our court affirmed the dismissal of appellants' challenge to Texas' Anti–Surcharge Law, which prohibits merchants from imposing surcharges for credit-card purchases. We held the law did not implicate the First Amendment's free-speech protections and was not unconstitutionally vague. *Id.* at 82, 84.

On 29 March 2017, the Supreme Court, in a similar matter, *Expressions Hair Design v. Schneiderman*, —— U.S. ——, 137 S.Ct. 1144, 197 L.Ed.2d 442 (2017), held speech was regulated and remanded to the second circuit. As a result, the Court remanded this matter to our court "for further consideration in light of *Expressions Hair Design*". *Rowell v. Pettijohn*, No. 15–1455, —— U.S ——, 137 S.Ct. 1431, 197 L.Ed.2d 644 (2017).

Accordingly, this matter is REMANDED to district court for further proceedings consistent with *Expressions Hair Design*.

UNITED STATES of America, Plaintiff-Appellee

v.

Eloy SILVA, Defendant-Appellant

No. 16-40167

United States Court of Appeals, Fifth Circuit.

Filed June 14, 2017

Background: After the denial of defendant's motion to suppress evidence seized in a protective sweep of defendant's trailer, defendant pled guilty in the United States District Court for the Southern District of Texas, No. 2:15-CR-311-1, to being a felon in possession of a firearm and ammunition. Defendant appealed.

Holdings: The United States Court of Appeals held that:

(1) exigent circumstances justified the protective sweep of defendant's trailer;

(2) law enforcement did not exceed the scope of a lawful protective sweep; and

(3) defendant's false representation that a seized container was locked justified government's refuse to reduce defendant's sentence for acceptance of responsibility.

Affirmed.

1. Criminal Law ⚿1139, 1158.12

When considering a district court's denial of a motion to suppress, the Court of Appeals reviews its findings of fact for clear error and its conclusions of law de novo.

2. Searches and Seizures ⚿25.1, 42.1

A warrantless entry into a home is presumptively unreasonable; exigent circumstances, however, may justify a warrantless entry. U.S. Const. Amend. 4.