

**Case Law Regarding the Ability to Compel to Unlock a Device** - Prepared by Pei Pei Cheng de Castro and Jennifer Hopkins, Barclay Damon LLP  
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Jurisdiction	Passcode	Biometrics (i.e. Face recognition/fingerprint)
<b>Fed: 1st Circuit</b>	Cannot compel to unlock device. <u>United States v. Jimenez</u> , 419 F. Supp. 3d 232 (D. Mass. 2020) (cellphone passcode)	Indicates that cannot compel to unlock device. <u>United States v. Jimenez</u> , 419 F. Supp. 3d 232 (D. Mass. 2020) (cellphone passcode)
<b>Fed: 2d Circuit</b>	Split Decisions: Cannot compel to unlock device. <u>United States v. Shvartsman</u> , No. 23-CR-307 (LJL), 2024 U.S. Dist. LEXIS 50597 (S.D.N.Y. Mar. 20, 2024) (cellphone passcode) (holding that the foregone conclusion doctrine does not apply) Can compel to unlock device. <u>United States v. Smith</u> , 706 F. Supp. 3d 404 (S.D.N.Y. 2023) (cellphone passcode) (applying foregone conclusion doctrine)	Can compel to unlock device. <u>United States v. Eldarir</u> , 681 F. Supp. 3d 43 (E.D.N.Y. 2023) (cellphone fingerprint)
<b>Fed: 3d Circuit</b>	Split Decisions: Cannot compel to unlock device. <u>SEC Civil Action v. Huang</u> , No. 15-269, 2015 U.S. Dist. LEXIS 127853 (E.D. Pa. Sep. 23, 2015) (cellphone passcode) (holding that the foregone conclusion doctrine does not apply) Can compel to unlock device: <u>United States v. Apple Mac Pro Comput.</u> , 851 F.3d 238 (3d Cir. 2017) (computer password) (applying foregone conclusion doctrine)	
<b>Fed: 4th Circuit</b>		Can compel to unlock device. <u>In re Search Warrant As to the Residence of Mike Crowe</u> , 437 F. Supp. 3d 515 (W.D. Va. 2020) (cellphone fingerprint and facial recognition)
<b>Fed: 5th Circuit</b>	Can compel to unlock device. <u>United States v. Cheng</u> , No. 4:20-CR-455, 2022 U.S. Dist. LEXIS 6437 (S.D. Tex. Jan. 12, 2022) (device password) (applying foregone conclusion doctrine)	
<b>Fed: 6th Circuit</b>	Cannot compel to unlock device. <u>United States v. Kirschner</u> , 823 F. Supp. 2d 665 (E.D. Mich. 2010) (computer password)	Can compel to unlock device. <u>In re Search Warrant No. 5165</u> , 470 F. Supp. 3d 715 (E.D. Ky. 2020) (cellphone fingerprint and facial recognition)
<b>Fed: 7th Circuit</b>		Split Decisions: Cannot compel to unlock device. <u>In re Application for a Search Warrant</u> , 236 F. Supp. 3d 1066 (N.D. Ill. 2017) (cellphone fingerprint) <u>In re Single-Family Home &amp; Attached Garage</u> , No. 17-M-85, 2017 U.S. Dist. LEXIS 170184 (N.D. Ill. Feb. 21, 2017) (cellphone fingerprint) Can compel to unlock device. <u>United States v. Barrera</u> , 415 F. Supp. 3d 832 (N.D. Ill. 2019) (cellphone fingerprint) <u>Matter of Search Warrant Application for [Redacted Text]</u> , 279 F. Supp. 3d 800 (N.D. Ill. 2017) (cellphone fingerprint)
<b>Fed: 8th Circuit</b>		Can compel to unlock device. <u>United States v. Morales</u> , No. 4:21-CR-263 (MTS/SPM), 2022 U.S. Dist. LEXIS 104053 (E.D. Mo. June 10, 2022) (cellphone fingerprint)

	<p>Cannot compel to unlock device.  <u>United States v. Maffei</u>, No. 18-CR-00174 (YGR), 2019 U.S. Dist. LEXIS 70314 (N.D. Cal. Apr. 25, 2019) (cellphone passcode)  <u>United States v. Booker</u>, 561 F. Supp. 3d 924 (S.D. Cal. 2021) (cellphone passcode)  Can compel to unlock device.  <u>United States v. Spencer</u>, No. 17-CR-00259 (CRB), 2018 U.S. Dist. LEXIS 70649 (N.D. Cal. Apr. 26, 2018) (cellphone passcode and computer password) (applying foregone conclusion doctrine)</p>	<p>Split Decisions:  Cannot compel to unlock device.  <u>United States v. Wright</u>, 431 F. Supp. 3d 1175 (D. Nev. 2020) (cellphone facial recognition)  <u>In re Search of a Residence in Oakland</u>, 354 F. Supp. 3d 1010 (N.D. Cal. 2019) (cellphone fingerprint and facial recognition) (finding foregone conclusion does not apply)  Can compel to unlock device.  <u>United States v. Payne</u>, 99 F.4th 495 (9th Cir. 2024) (cellphone fingerprint)  <u>Matter of White Google Pixel 3 XL Cellphone in a Black Incipio Case</u>, 398 F. Supp. 3d 785 (D. Idaho 2019) (cellphone fingerprint)  <u>United States v. Sealed Warrant</u>, No. REDACTED, 2019 U.S. Dist. LEXIS 147836 (N.D. Cal. Aug. 16, 2019) (cellphone fingerprint and facial recognition) (applying foregone conclusion doctrine)</p>
<b>Fed: 9th Circuit</b>	<p>Cannot compel to unlock device:  <u>United States v. Sanchez</u>, 334 F. Supp. 3d 1284 (N.D. Ga. 2018) (cellphone passcode)  <u>United States v. Doe (In re Grand Jury Subpoena Duces Tecum)</u>, 670 F.3d 1335 (11th Cir. 2012) (computer password)  <u>United States v. Mendez-Bernal</u>, No. 3:19-CR-00010 (TCB/RGV), 2020 U.S. Dist. LEXIS 166429 (N.D. Ga. July 22, 2020) (cellphone passcode)</p>	
<b>Fed: 11th Circuit</b>		<p>Can compel to unlock device.  <u>In re Search of</u>, 317 F. Supp. 3d 523 (D.D.C. 2018) (cellphone fingerprint and facial recognition)</p>
<b>Fed: DC Circuit</b>		<p>Can compel to unlock device.  <u>People v. Ramirez</u>, 316 Cal. Rptr. 3d 520 (Cal. Ct. App. 2023) (cellphone fingerprint)(applying foregone conclusion doctrine)</p>
<b>State: CA</b>		
<b>State: FL</b>	<p>Can compel to unlock device.  <u>State v. Stahl</u>, 206 So. 3d 124 (Fla. Dist. Ct. App. 2016) (cellphone passcode) (applying foregone conclusion doctrine)</p>	
<b>State: IL</b>	<p>Can compel to unlock device.  <u>People v. Sneed</u>, 2023 IL 127968, 230 N.E.3d 97 (Ill. 2023) (cellphone passcode) (applying foregone conclusion doctrine)</p>	
<b>State: IN</b>	<p>Cannot compel to unlock device.  <u>Seo v. State</u>, 148 N.E.3d 952 (Ind. 2020) (cellphone passcode) (holding that the foregone conclusion doctrine does not apply)</p>	
<b>State: ME</b>	<p>Cannot compel to unlock device.  <u>State v. Trant</u>, 2015 Me. Super. LEXIS 272 (Me. Sup. Ct. Oct. 27, 2015) (cellphone passcode) (holding that the foregone conclusion doctrine does not apply)</p>	
<b>State: MA</b>	<p>Can compel to unlock device.  <u>Commonwealth v. Jones</u>, 117 N.E.3d 702 (Mass. 2019) (cellphone passcode) (applying foregone conclusion doctrine)</p>	
<b>State: MO</b>	<p>Can compel to unlock device.  <u>State v. Johnson</u>, 576 S.W.3d 205 (Mo. Ct. App. 2019) (cellphone passcode) (applying foregone conclusion doctrine)</p>	
<b>State: MN</b>		<p>Can compel to unlock device.  <u>State v. Diamond</u>, 905 N.W.2d 870 (Minn. 2018) (cellphone fingerprint)</p>
<b>State: NJ</b>	<p>Can compel to unlock device.  <u>State v. Andrews</u>, 234 A.3d 1254 (N.J. 2020) (cellphone passcode) (applying foregone conclusion doctrine)</p>	

<b>State: OR</b>	<u>Can compel to unlock device.</u> <u>State v. Pittman</u> , 479 P.3d 1028 (Or. 2021) (cellphone passcode) (applying foregone conclusion doctrine)	
<b>State: PA</b>	<u>Cannot compel to unlock device.</u> <u>Commonwealth v. Davis</u> , 220 A.3d 534 (Pa. 2019) (computer password) (explaining that the foregone conclusion doctrine is inapplicable)	
<b>State: UT</b>	<u>Cannot compel to unlock device.</u> <u>State v. Valdez</u> , 2023 UT 26, 552 P.3d 159 (Sup. Ct.) (cellphone passcode) (holding that the foregone conclusion doctrine does not apply)	
<b>State: VA</b>	<u>Cannot compel to unlock device.</u> <u>Commonwealth v. Baust</u> , 89 Va. Cir. 267 (Va. Cir. Ct. 2014) (cellphone passcode) (explaining that the foregone conclusion does not apply)	<u>Can compel to unlock device.</u> <u>Commonwealth v. Baust</u> , 89 Va. Cir. 267 (Va. Cir. Ct. 2014) (cellphone fingerprint)
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