

SUPREME COURT OF NORTH DAKOTA

State v. West

2020 ND 74 (2020) · No. 20190311 · Decided April 6, 2020

SUMMARY

The North Dakota Supreme Court affirmed Frank West’s criminal judgment after concluding that officers conducted a valid probationary search of a residence based on reasonable suspicion. The court also held that West forfeited his ability to seek suppression of evidence found in a common area because he did not object to the search or claim ownership of the suitcase containing the evidence.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Gerald W. VandeWalle, Justice; Gerald W. VandeWalle; Daniel J. Crothers; Jerod E. Tufte; Lisa Fair McEvers; Jon J. Jensen, C.J.
JURISDICTION	North Dakota
DECIDED	April 6, 2020
DOCKET	20190311
DISPOSITION	affirmed
PROCEDURAL POSTURE	West conditionally pleaded guilty to possession with intent to manufacture or deliver a controlled substance after the district court denied his motion to suppress evidence obtained during a warrantless probationary search of a residence. He appealed while reserving the right to challenge the suppression ruling.
STANDARD OF REVIEW	A suppression ruling will not be reversed if, after conflicts in testimony are resolved in favor of affirmance, sufficient competent evidence supports the trial court’s findings and the decision is not contrary to the manifest weight of the evidence. Questions of law, including whether a search violated constitutional protections against unreasonable searches and seizures, are reviewed fully.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of North Dakota
PARTIES	Frank Richard West v. State of North Dakota

TOPICS

suppression of evidence

fourth amendment

search and seizure

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warrant requirement

PRACTICE AREAS

criminal procedure

constitutional law

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suppression of evidence

probation

QUESTIONS PRESENTED

1. Whether the warrantless search of the probationer's residence was constitutionally valid when the probationer was in custody but his probation had not been revoked.
2. Whether West, a guest who did not object to the search and did not claim ownership of the searched suitcase, could seek suppression of evidence found in a common area during the probationary search.

HOLDINGS

1. A probationer remains subject to valid probation conditions, including a warrantless-search condition, while in custody unless probation has been terminated or revoked. Because the probationer remained subject to the search condition and officers had reasonable suspicion that the residence contained firearms constituting a probation violation, officers were authorized to enter and search the residence.
2. A person sharing a residence with a probationer forfeits the ability to seek suppression of evidence obtained during a reasonable warrantless probationary search of common areas when the person does not object to the search and does not assert ownership or a contrary interest in the searched property.

KEY QUOTATIONS

"Stenhoff remained on probation and subject to conditions of probation while in custody until such time as his probation was terminated or revoked." (§ 14)

"Because he did neither, and the officers had authority to search the common areas of the residence, West has no recourse to seek suppression under our holding in Hurt." (§ 21)

FACTUAL BACKGROUND

West was temporarily staying at a Grand Forks residence occupied by a supervised probationer, the probationer's wife, and their children. The probationer was in custody on a thirty-day sanction but remained subject to a condition authorizing warrantless searches of his person, residence, vehicle, and other property to which he had access. Based on reports that the probationer's wife had purchased firearms for him and that he might be selling illegal drugs from the residence, a probation officer and police searched the home without a warrant. Officers found marijuana in a suitcase in a common area; West did not object to the search or claim ownership of the suitcase until after the marijuana was being removed.

PROCEDURAL HISTORY

Law enforcement conducted a warrantless search of a residence occupied by a probationer and discovered marijuana in a suitcase in a common area. The district court denied West's suppression motion, concluding the search was a valid probationary search and that West forfeited his ability to seek suppression because he did not

object during the search. After West entered a conditional guilty plea, the North Dakota Supreme Court affirmed the criminal judgment.

DISPOSITION

affirmed

CASES CITED

- State v. Ballard, 2016 ND 8, 874 N.W.2d 61
- State v. Kuruc, 2014 ND 95, 846 N.W.2d 314
- State v. Gardner, 2019 ND 122, 927 N.W.2d 84
- United States v. Padilla, 508 U.S. 77 (1993)
- United States v. Salvucci, 448 U.S. 83 (1980)
- State v. Gatlin, 2014 ND 162, 851 N.W.2d 178
- People v. Romeo, 193 Cal. Rptr. 3d 96 (Cal. Ct. App. 2015)
- Rakas v. Illinois, 439 U.S. 128 (1978)
- State v. White, 2018 ND 266, 920 N.W.2d 742
- State v. Adams, 2010 ND 184, 788 N.W.2d 619
- State v. Maurstad, 2002 ND 121, 647 N.W.2d 688
- State v. Stenhoff, 2019 ND 106, 925 N.W.2d 429
- State v. Hurt, 2007 ND 192, 743 N.W.2d 102
- State v. Krous, 2004 ND 136, 681 N.W.2d 822

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