

SUPREME COURT OF WYOMING

Baker v. State

223 P.3d 542 (Wyo. 2010) · No. S-08-0094 · Decided January 20, 2010

SUMMARY

The Wyoming Supreme Court reviewed David Dale Baker’s convictions for controlled-substance offenses, conspiracy, and child endangerment. The court upheld the warrantless search based on third-party consent, rejected challenges to the sufficiency of the evidence and jury instructions, and addressed the applicable conspiracy statute and merger of offenses. The court affirmed in part and remanded in part for sentencing purposes.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Justice; Voigt, C.J.; Golden, J.; Hill, J.; Kite, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	January 20, 2010
DOCKET	S-08-0094
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Baker appealed his convictions for possessing controlled-substance precursors with intent to engage in a clandestine laboratory operation, conspiracy offenses, and child endangerment. He challenged the denial of suppression and acquittal motions, jury instructions, effectiveness of counsel, and merger of offenses.
STANDARD OF REVIEW	Suppression factual findings are reviewed for clear error, with the evidence viewed favorably to the trial court; the constitutionality of a search is reviewed de novo. Denial of judgment of acquittal is reviewed by accepting the State's evidence and reasonable inferences while disregarding conflicting evidence. Unpreserved jury-instruction claims are reviewed for plain error. Ineffective-assistance claims first raised on appeal are reviewed de novo. Jury instructions are reversible only if they confused or misled the jury regarding the law and prejudiced the defendant.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	David Dale Baker v. State of Wyoming

TOPICS

criminal procedure

suppression of evidence

fourth amendment

jury instructions

statutory interpretation

PRACTICE AREAS

criminal procedure

constitutional criminal procedure

evidence

statutory interpretation

jury instructions

ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether Merck had actual or apparent authority to consent to the warrantless search of Baker's residence and related premises.
2. Whether the evidence was sufficient to support Baker's two child-endangerment convictions.
3. Whether the child-endangerment jury instructions constituted plain error by failing to require contemporaneous presence of the children during active methamphetamine manufacture.
4. Whether the trial court used the wrong conspiracy statute and failed to instruct the jury on the legally applicable conspiracy elements.
5. Whether Baker received ineffective assistance of counsel when counsel insisted that the controlled-substances conspiracy statute applied.
6. Whether the conspiracy counts should merge for charging or sentencing purposes.

HOLDINGS

1. A co-inhabitant's consent validly authorized the warrantless search where the facts available to officers objectively supported the conclusion that she had common authority over the residence, even though the defendant was absent and the door had been chained from inside.
2. The district court properly denied Baker's motion for judgment of acquittal because the evidence and reasonable inferences supported a finding that the children were present while methamphetamine-related manufacturing activities occurred in the home.
3. The child-endangerment instructions did not constitute plain error because they adequately stated the statutory elements and did not clearly and unequivocally violate Wyoming law.
4. Neither the general conspiracy statute, Wyo. Stat. Ann. § 6-1-303, nor the general controlled-substances conspiracy statute, Wyo. Stat. Ann. § 35-7-1042, applied to Baker's charged conduct. The specific conspiracy provision in Wyo. Stat. Ann. § 35-7-1059(a)(iv) governed, and Baker's charged conspiracies to possess precursors and laboratory equipment were not crimes under that provision.
5. Trial counsel's insistence that Wyo. Stat. Ann. § 35-7-1042 was the proper conspiracy statute constituted deficient performance, but Baker failed to establish prejudice because the alternative general conspiracy statute was also inapplicable and the remaining convictions were supported.

KEY QUOTATIONS

“The end result is that Baker was charged with and subsequently convicted of crimes that do not legally exist.” (557)

“Because of this, Baker's trial counsel was deficient, though he did not suffer any prejudice.” (558)

FACTUAL BACKGROUND

Police responded to a domestic-assault report made by Baker's live-in girlfriend, Crystal Merck. Merck unlocked the residence's back door, consented to officers' entry, and later consented to a search of the home, garage, and trailer after officers explained that they suspected methamphetamine manufacturing. The search uncovered chemicals, equipment, and residue consistent with methamphetamine manufacture. Merck and another witness testified that Baker and others had engaged in methamphetamine-related activities while Merck's children lived in the home.

PROCEDURAL HISTORY

After a jury trial, Baker was convicted on all six counts. The district court denied his motions for judgment of acquittal and new trial and imposed concurrent sentences for the possession and conspiracy counts and consecutive concurrent sentences for the two child-endangerment counts. The Wyoming Supreme Court affirmed several rulings, reversed the conspiracy convictions because the charged conduct was not a crime under the applicable statute, and remanded for resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the district court to sentence Baker in accordance with the opinion, including reversal of the convictions on Counts III and IV.

CASES CITED

- Shaw v. State, 2009 WY 18, 201 P.3d 1108
- Pena v. State, 2004 WY 115, 98 P.3d 857
- Andrews v. State, 2002 WY 28, 40 P.3d 708
- United States v. Matlock, 415 U.S. 164 (1974)
- Illinois v. Rodriguez, 497 U.S. 177 (1990)
- Georgia v. Randolph, 547 U.S. 103 (2006)
- McClelland v. State, 2007 WY 57, 155 P.3d 1013
- Mattern v. State, 2007 WY 24, 151 P.3d 1116
- Six v. State, 2008 WY 42, 180 P.3d 912
- Butz v. State, 2007 WY 152, 167 P.3d 650
- Miller v. State, 955 P.2d 892 (Wyo. 1998)

- Palato v. State, 988 P.2d 512 (Wyo. 1999)
- Janpol v. State, 2008 WY 21, 178 P.3d 396
- Bromley v. State, 2007 WY 20, 150 P.3d 1202
- Tietema v. State, 926 P.2d 952 (Wyo. 1996)
- Parker Land & Cattle Co. v. Game & Fish Comm'n, 845 P.2d 1040 (Wyo. 1993)
- Rasmussen v. Baker, 7 Wyo. 117, 50 P. 819 (1897)
- Houghton v. Franscell, 870 P.2d 1050 (Wyo. 1994)
- Carter v. Thompson Realty Co., 58 Wyo. 279, 131 P.2d 297 (1942)
- Schafer v. State, 2008 WY 149, 197 P.3d 1247
- Eaton v. State, 2008 WY 97, 192 P.3d 36
- Strickland v. Washington, 466 U.S. 668 (1984)
- Pendleton v. State, 2008 WY 36, 180 P.3d 212
- Bloomquist v. State, 914 P.2d 812 (Wyo. 1996)
- Gist v. State, 737 P.2d 336 (Wyo. 1987)
- Martinez v. State, 2006 WY 20, 128 P.3d 652
- Holzheuser v. State, 2007 WY 160, 169 P.3d 68