

SUPREME COURT OF SOUTH DAKOTA

In the Matter of H.L.S., Alleged Delinquent Child

774 N.W.2d 803 (S.D. 2009) · No. No. 24998 · Decided October 28, 2009

SUMMARY

The Supreme Court of South Dakota held that law enforcement lacked probable cause to warrantlessly arrest H.L.S., a seventeen-year-old found in an apartment where marijuana was discovered. Because the record did not establish that she knew of the marijuana's presence and character, the court reversed the denial of her motion to suppress the urine sample obtained after the arrest.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gilbertson, Chief Justice; Konen kamp, Justice; Zinter, Justice; Meierhenry, Justice; Severson, Justice
JURISDICTION	South Dakota
DECIDED	October 28, 2009
DOCKET	No. 24998
DISPOSITION	reversed
PROCEDURAL POSTURE	H.L.S., an alleged delinquent child, appealed the denial of her motion to suppress the results of a compelled urine sample obtained after a warrantless arrest.
STANDARD OF REVIEW	The court reviewed the denial of a suppression motion de novo, reviewing factual findings for clear error and giving no deference to legal conclusions. A trial court's finding concerning probable cause for a warrantless arrest is not overturned unless clearly erroneous.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of South Dakota; binding precedent in South Dakota.
PARTIES	H.L.S. v. State of South Dakota

TOPICS

criminal procedure

fourth amendment

probable cause

search and seizure

suppression of evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether officers had probable cause under the Fourth Amendment and SDCL 23A-3-2(2) to arrest H.L.S. without a warrant based only on her presence in the apartment and proximity to marijuana found there.
2. Whether the urine sample obtained as a search incident to that arrest should have been suppressed.

HOLDINGS

1. The officers lacked probable cause to arrest H.L.S. because the record did not contain particularized facts showing that she knew of the presence and character of the marijuana or intentionally and consciously possessed it.
2. Because H.L.S.'s warrantless arrest was unsupported by probable cause, the urine sample obtained as a search incident to that arrest was not lawfully obtained and the denial of the suppression motion must be reversed.

KEY QUOTATIONS

“A person's mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to arrest that person.” (at 808)

“Therefore, law enforcement did not have sufficient probable cause for H.L.S.'s warrantless arrest.” (at 810)

FACTUAL BACKGROUND

During execution of a valid search warrant at an apartment, officers found H.L.S., age seventeen, seated and handcuffed in the living room with five other people. Marijuana stems, seeds, flakes, and evidence of a marijuana cigarette were found in or near the living room, but the record did not establish where H.L.S. had been when officers first entered or her location relative to the contraband at that time. After no occupant claimed ownership, officers arrested everyone and compelled H.L.S. to provide a urine sample, which tested positive for THC.

PROCEDURAL HISTORY

Law enforcement arrested H.L.S. during execution of a search warrant at an apartment where marijuana was found in plain view. After her urine sample tested positive for THC, she was charged with possessing two ounces or less of marijuana and ingesting a substance to become intoxicated. The circuit court denied her suppression motion, finding probable cause for the arrest, and the South Dakota Supreme Court reversed.

DISPOSITION

reversed

CASES CITED

- State v. Wendling, 2008 SD 77, ¶ 8, 754 N.W.2d 837, 839
- State v. Labine, 2007 SD 48, ¶ 12, 733 N.W.2d 265, 268-69
- State v. Condon, 2007 SD 124, ¶ 15, 742 N.W.2d 861, 866
- State v. Hanson, 1999 SD 9, ¶¶ 10, 15-16, 588 N.W.2d 885, 889-90
- United States v. Woolbright, 831 F.2d 1390 (8th Cir. 1987)
- United States v. McGlynn, 671 F.2d 1140 (8th Cir. 1982)
- State v. Baysinger, 470 N.W.2d 840, 842-47 (S.D. 1991)
- State v. Mattson, 2005 SD 71, ¶ 29, 698 N.W.2d 538, 548
- State v. DeLaRosa, 2003 SD 18, ¶ 7, 657 N.W.2d 683, 685
- Terry v. Ohio, 392 U.S. 1, 20 (1968)
- State v. Noteboom, 2008 SD 114, ¶ 6, 758 N.W.2d 457, 459
- State v. Haar, 2009 SD 79, ¶ 23, 772 N.W.2d 157, 167
- United States v. Arvizu, 534 U.S. 266, 273 (2002)
- State v. Kietzke, 85 S.D. 502, 506, 186 N.W.2d 551, 554 (1971)
- Ybarra v. Illinois, 444 U.S. 85, 91 (1979)

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