

SUPREME COURT OF UTAH

State of Utah v. Anna Marie Morgan

34 P.3d 767 (Utah 2001) · No. No. 20000257 · Decided October 19, 2001

SUMMARY

The Supreme Court of Utah held that a prosecutor's innocent miscalculation of the evidence needed to establish probable cause at a preliminary hearing may constitute "other good cause" permitting refiling of dismissed criminal charges. The court concluded that the State's failure to call a qualified officer at the first hearing did not violate the defendant's due process rights because there was no forum shopping, harassment, or withholding of evidence. The court reversed the Utah Court of Appeals and reinstated Anna Marie Morgan's convictions.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Chief Justice Howe; Associate Chief Justice Russon; Justice Durham; Justice Durrant; District Judge David L. Mower
JURISDICTION	Utah
DECIDED	October 19, 2001
DOCKET	No. 20000257
DISPOSITION	reversed
PROCEDURAL POSTURE	The State sought certiorari review of the Utah Court of Appeals' reversal of Morgan's convictions. The Supreme Court of Utah reversed the court of appeals and reinstated the convictions.
STANDARD OF REVIEW	The court reviewed the interpretation of the relevant case law, a question of law, for correctness.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Utah
PARTIES	State of Utah v. Anna Marie Morgan

TOPICS

- criminal procedure
- preliminary hearing
- due process
- probable cause
- appellate procedure

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure
- criminal evidence

QUESTIONS PRESENTED

1. Whether the State could dismiss and refile the drug-distribution charge after the first preliminary hearing resulted in a reduced bindover for insufficient evidence.
2. Whether the prosecutor's failure to call a qualified officer who was present and available at the first preliminary hearing constituted an innocent miscalculation and therefore other good cause justifying refiling under *State v. Brickey*.
3. Whether refiling violated Morgan's due process rights by constituting prosecutorial harassment, forum shopping, withholding of evidence, or another form of fundamental unfairness.

HOLDINGS

1. Under the Utah Constitution's due process guarantee, refiling a charge dismissed for insufficient evidence is permissible when the State shows new or previously unavailable evidence or other good cause, provided refiling does not involve prosecutorial harassment, forum shopping, withholding of evidence, or other fundamental unfairness.
2. An innocent miscalculation by the prosecutor of the quantum of evidence necessary to obtain a bindover constitutes other good cause that may justify refiling, even when the additional evidence was known and available at the first preliminary hearing.
3. The State's refiling did not violate Morgan's due process rights because the prosecutor's failure to call the second officer was an innocent miscalculation, the second hearing was held before the same magistrate, and the State did not engage in forum shopping, harassment, or withholding of evidence.

KEY QUOTATIONS

"While we noted but did not specifically adopt innocent miscalculation as a subsection of other good cause in Brickey, we do so today." (at 771)

"In so doing, we emphasize that the miscalculation must be innocent, and further investigation must be nondilatory and not otherwise infringe on due process rights of a defendant." (at 771)

"The lodestar of Brickey, then, is fundamental fairness." (at 771)

FACTUAL BACKGROUND

During an inventory search of Morgan's vehicle after her arrest on outstanding warrants, officers found methamphetamine under the driver's seat, additional methamphetamine and empty small baggies in her purse, and marijuana in the glove compartment. At the first preliminary hearing, the State presented only the arresting officer, whose limited training and experience led the magistrate to find the evidence insufficient to establish intent to distribute. Although a second, substantially more experienced officer was present and sworn, the prosecutor did not call him until the second preliminary hearing. The second officer testified that the quantity and packaging of the drugs, considered together, were more consistent with distribution than personal use.

PROCEDURAL HISTORY

Morgan was initially bound over on reduced possession charges after the magistrate found insufficient evidence of intent to distribute at the first preliminary hearing. The State dismissed the information without prejudice and refiled the original charges, presenting testimony from a second, more experienced officer at a second preliminary hearing; the magistrate then bound Morgan over as charged. The district court denied Morgan's motion to dismiss under *State v. Brickey*, and she was convicted. The court of appeals reversed, concluding that the State's evidence did not constitute new or previously unavailable evidence or other good cause under *Brickey*. The Utah Supreme Court granted certiorari, reversed, and reinstated the convictions.

DISPOSITION

reversed

CASES CITED

- *State v. Morgan*, 2000 UT App. 48, 997 P.2d 910
- *State v. Larsen*, 865 P.2d 1355, 1357 (Utah 1993)
- *State v. Brickey*, 714 P.2d 644, 646-48 (Utah 1986)
- *Jones v. State*, 481 P.2d 169, 171 (Okla. Ct. App. 1971)
- *State v. Fisk*, 966 P.2d 860, 864 (Utah Ct. App. 1998)
- *Harper v. District Court*, 484 P.2d 891, 897 (Okla. 1971)
- *State v. Elling*, 19 Ariz. App. 317, 506 P.2d 1102, 1103 (1973)
- *People v. Sabell*, 708 P.2d 463, 466 (Colo. 1985)
- *State v. Bacon*, 117 Idaho 679, 791 P.2d 429, 433-34 (1990)
- *Stockwell v. State*, 98 Idaho 797, 573 P.2d 116, 126 (1977)
- *State v. Vargo*, 139 Mich. App. 573, 362 N.W.2d 840, 842-43 (1985)
- *State v. Dail*, 228 Neb. 653, 424 N.W.2d 99, 102 (1988)
- *Chase v. State*, 517 P.2d 1142, 1143 (Okla. Ct. App. 1973)
- *People v. Noline*, 917 P.2d 1256, 1264 (Colo. 1996)
- *State v. Humphrey*, 823 P.2d 464, 467 n. 6 (Utah 1991)
- *State v. Whittle*, 1999 UT 96, ¶ 13, 989 P.2d 52