

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Commonwealth v. Leslie

477 Mass. 48 (2017) · No. SJC-12176 · Decided May 9, 2017

SUMMARY

The Massachusetts Supreme Judicial Court held that a warrantless police entry into the side yard and porch area of a three-family home constituted a search under the Fourth Amendment and art. 14 of the Massachusetts Declaration of Rights. Applying the curtilage factors from *United States v. Dunn* and the physical-intrusion framework of *Florida v. Jardines*, the court concluded that the search was unlawful and affirmed the suppression of a sawed-off shotgun.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Hines, J.; Gants, C.J.; Botsford, J.; Lenk, J.; Gaziano, J.; Lowy, J.; Budd, J.
JURISDICTION	Massachusetts
DECIDED	May 9, 2017
DOCKET	SJC-12176
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Commonwealth took an interlocutory appeal from an order allowing the defendants' pretrial motions to suppress evidence seized during a warrantless search. The Supreme Judicial Court granted direct appellate review.
STANDARD OF REVIEW	The court accepted the motion judge's subsidiary factual findings absent clear error and independently reviewed the application of constitutional principles to those facts. It also independently reviewed whether the searched area was within the home's curtilage.
PRECEDENTIAL VALUE	published precedential opinion of the Massachusetts Supreme Judicial Court
PARTIES	Commonwealth v. Bobby Leslie, Lacy Price

TOPICS

- search and seizure
- fourth amendment
- warrant requirement
- suppression of evidence
- criminal procedure

PRACTICE AREAS

criminal procedure

constitutional law

search and seizure

firearms offenses

QUESTIONS PRESENTED

1. Whether the side yard and porch area of a multifamily home may constitute curtilage protected by the Fourth Amendment and article 14.
2. Whether the police officer's warrantless physical intrusion into the side yard and porch area was an unlicensed search requiring a warrant.
3. Whether the Commonwealth could justify the warrantless search based on probable cause or exigent circumstances despite not raising that argument below.

HOLDINGS

1. The side yard and porch area of the three-family home were within the home's curtilage and therefore constituted a constitutionally protected area under the Fourth Amendment and article 14.
2. Detective Griffin's warrantless physical intrusion into the side yard and porch area to search for the weapon was an unlicensed search for constitutional purposes.
3. The court declined to reach the merits of the Commonwealth's probable-cause and exigent-circumstances argument because the Commonwealth failed to raise it below and therefore waived it.

KEY QUOTATIONS

“Thus, we decline to limit Jardines' holding to single-family homes or to fashion a rule categorically excluding areas associated with multifamily homes as curtilage and thus placing them beyond the reach of the protections of the Fourth Amendment and art. 14.” (477 Mass. at 51)

“In veering off the path and venturing into the side yard of the home for the purpose of conducting a search for the weapon, Detective Griffin engaged in the precise conduct that Jardines found offensive to the Fourth Amendment.” (477 Mass. at 58)

FACTUAL BACKGROUND

Police observed Bobby Leslie and several other men enter the fenced property of a three-family home where Lacy Price resided. Leslie and Price repeatedly went to the side porch area, bent down, and appeared to manipulate or inspect something under the porch; Leslie also made a gesture simulating the firing of a shotgun. Without a warrant, Detective Daniel Griffin left the walkway and entered the obscured side yard, where he saw a sawed-off shotgun under the porch; Leslie and Price were subsequently arrested.

PROCEDURAL HISTORY

The defendants were indicted in the Superior Court Department on firearms and ammunition offenses. A Superior Court judge allowed their motions to suppress a sawed-off shotgun found under the porch of a three-family home, concluding that the warrantless search violated the warrant requirement under *Florida v. Jardines* and article 14 of the Massachusetts Declaration of Rights. The Commonwealth appealed; a single justice allowed

an interlocutory appeal and reported the case to the Appeals Court, after which the Supreme Judicial Court granted direct appellate review.

DISPOSITION

affirmed

CASES CITED

- Florida v. Jardines, 133 S. Ct. 1409 (2013)
- United States v. Dunn, 480 U.S. 294 (1987)
- United States v. Whitaker, 820 F.3d 849, 854 (7th Cir. 2016)
- United States v. Hopkins, 824 F.3d 726, 731 (8th Cir. 2016)
- United States v. Sweeney, 821 F.3d 893, 901 (7th Cir. 2016)
- United States v. Burston, 806 F.3d 1123, 1127 (8th Cir. 2015)
- United States v. Jackson, 728 F.3d 367, 373 (4th Cir. 2013)
- Commonwealth v. Amendola, 406 Mass. 592, 601 (1990)
- Commonwealth v. Fernandez, 458 Mass. 137, 142, 144-145 (2010)
- Commonwealth v. Warren, 475 Mass. 530, 531, 532 n.5, 534 (2016)
- Commonwealth v. Melo, 472 Mass. 278, 286 (2015)
- Commonwealth v. Scott, 440 Mass. 642, 646 (2004)
- Commonwealth v. Wilson, 441 Mass. 390, 393 (2004)
- Oliver v. United States, 466 U.S. 170, 176, 180, 182 n.12 (1984)
- United States v. Knotts, 460 U.S. 276, 286 (1983) (Brennan, J., concurring in the judgment)
- United States v. Jones, 565 U.S. 400, 408-409 (2012)
- Commonwealth v. Bettencourt, 447 Mass. 631, 633 (2006)
- Commonwealth v. Morrissey, 422 Mass. 1, 4 n.5 (1996)
- Terry v. Ohio, 392 U.S. 1, 21-22 (1968)
- Coolidge v. New Hampshire, 403 U.S. 443, 451 (1971)
- Agnello v. United States, 269 U.S. 20, 33 (1925)