

SUPREME COURT OF KANSAS

State v. Boyd, 275 Kan. 271

64 P.3d 419 (2003) · No. No. 86,553 · Decided March 7, 2003

SUMMARY

The Kansas Supreme Court held that police violated a passenger's Fourth Amendment rights by searching her purse after ordering her to leave it in a vehicle during a consensual vehicle search. The court distinguished *Wyoming v. Houghton*, concluding that the passenger had attempted to retain control of the purse and that probable cause to search the vehicle had not existed when she was ordered to leave it behind. The court reversed the lower court judgments and remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Allegretti, J.
JURISDICTION	Kansas
DECIDED	March 7, 2003
DOCKET	No. 86,553
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Boyd appealed her conviction for possession of crack cocaine after the district court denied her motion to suppress evidence found in her purse. The Kansas Court of Appeals affirmed, and the Kansas Supreme Court granted review.
STANDARD OF REVIEW	When material facts concerning a motion to suppress are undisputed, whether evidence should be suppressed is a question of law subject to unlimited review. The State bears the burden of proving the lawfulness of the search and seizure.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Tracy D. Boyd v. State of Kansas

TOPICS

- suppression of evidence
- fourth amendment
- search and seizure
- probable cause
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Fourth Amendment permitted police to search a passenger's purse after ordering the passenger to leave it in a vehicle during a consensual vehicle search.
2. Whether probable cause arising from discovery of a crack pipe in the vehicle justified the subsequent search of Boyd's purse.
3. Whether the discovery of the cocaine was inevitable because Boyd later disclosed the contents of her purse.

HOLDINGS

1. When a passenger is ordered out of a lawfully stopped vehicle and, in response to an officer's order, leaves her purse in the vehicle, a subsequent search of the purse as part of a vehicle search violates the passenger's Fourth Amendment right against unreasonable searches and seizures.
2. Discovery of a crack pipe after Boyd was ordered to leave her purse in the vehicle did not retroactively justify the search of the purse because the officers lacked probable cause to search the vehicle at the time they required her to leave it behind.
3. The State did not establish that the cocaine was inevitably discoverable merely because Boyd later disclosed the contents of her purse while under arrest.

KEY QUOTATIONS

"We hold that where a passenger is told by a police officer to get out of a lawfully stopped vehicle and in response to the officer's order to leave her purse in the vehicle, puts the purse down and exits the vehicle, a subsequent search of the purse as part of a search of the vehicle violates the passenger's Fourth Amendment right against unreasonable search and seizure." (275 Kan. at 283)

FACTUAL BACKGROUND

Officers stopped a vehicle in which Tracy Boyd was a passenger after observing the driver make a turn without signaling. The driver consented to a search of the vehicle, but Boyd refused consent to search her purse and attempted to take it with her when officers ordered her out of the vehicle. An officer directed her to leave the purse inside, found a crack pipe in the vehicle's center console, and then searched the purse, discovering crack cocaine.

PROCEDURAL HISTORY

Police stopped a vehicle for a traffic violation, searched it after the driver consented, and searched Boyd's purse after directing her to leave it in the vehicle. The district court denied suppression, relying on *Wyoming v. Houghton*. The Court of Appeals affirmed on review, and the Kansas Supreme Court reversed and remanded for a new trial.

DISPOSITION

REMAND INSTRUCTIONS

The judgments of the Kansas Court of Appeals and the district court were reversed, and the case was remanded for a new trial.

CASES CITED

- State v. Damm, 246 Kan. 220, 787 P.2d 1185 (1990)
- State v. Rexroat, 266 Kan. 50, 966 P.2d 666 (1998)
- State v. Jaso, 231 Kan. 614, 648 P.2d 1 (1982)
- State v. Box, 28 Kan. App. 2d 401, 17 P.3d 386 (2000)
- State v. Platten, 225 Kan. 764, 594 P.2d 201 (1979)
- Carroll v. United States, 267 U.S. 132 (1925)
- State v. Hardyway, 264 Kan. 451, 958 P.2d 618 (1998)
- Wyoming v. Houghton, 526 U.S. 295 (1999)
- United States v. Ross, 456 U.S. 798 (1982)
- United States v. Di Re, 332 U.S. 581 (1948)
- New York v. Belton, 453 U.S. 454 (1981)
- State v. Ray, 260 Neb. 868, 620 N.W.2d 83 (2000)
- State v. Lopez, 198 Ariz. 420, 10 P.3d 1207 (2000)
- State v. Pallone, 236 Wis. 2d 162, 613 N.W.2d 568 (2000)
- State v. Steele, 613 N.W.2d 825 (S.D. 2000)
- State v. Newsom, 132 Idaho 698, 979 P.2d 100 (1998)
- State v. Nelson, 89 Wash. App. 179, 948 P.2d 1314 (1997)