

SUPREME COURT OF NEW MEXICO

State v. Rivera

148 N.M. 659 (N.M. 2010) · No. No. 31,656 · Decided October 19, 2010

SUMMARY

The New Mexico Supreme Court held that a law enforcement officer's warrantless opening of opaque bundles inside a package exceeded the scope of a prior private search. Although the search was permissible under the Fourth Amendment, Article II, Section 10 of the New Mexico Constitution required a warrant absent an exception to the warrant requirement. The court reversed the Court of Appeals and affirmed the district court's suppression of the evidence.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Chávez, Justice; Charles W. Daniels, Chief Justice; Patricio M. Serna, Justice; Petra Jimenez Maes, Justice; Richard C. Bosson, Justice
JURISDICTION	New Mexico
DECIDED	October 19, 2010
DOCKET	No. 31,656
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendant petitioned for certiorari review of the New Mexico Court of Appeals' decision holding that a law enforcement agent did not impermissibly expand a private search by opening an opaque bundle in a package. The Supreme Court reversed the Court of Appeals and affirmed the district court's suppression order.
STANDARD OF REVIEW	Review of a suppression ruling presents a mixed question of law and fact; the court defers to supported factual findings but independently reviews the constitutional reasonableness of the search.
PRECEDENTIAL VALUE	Published New Mexico Supreme Court opinion; precedential.
PARTIES	Erica Rivera v. State of New Mexico

TOPICS

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

PRACTICE AREAS

criminal procedure

constitutional law

search and seizure

evidence

QUESTIONS PRESENTED

1. Whether a law enforcement officer's opening of opaque bundles inside a package previously opened by private parties violated the Fourth Amendment.
2. Whether Article II, Section 10 of the New Mexico Constitution requires a warrant before an officer exceeds the scope of a private search by opening opaque bundles, absent an exception to the warrant requirement.
3. Whether the plain-view doctrine authorized the warrantless opening of the opaque bundles.

HOLDINGS

1. Under the Fourth Amendment, the officer's reopening of the package and cutting into an opaque bundle did not unreasonably exceed the scope of the private search because the private search had substantially compromised Rivera's privacy interest and the additional intrusion was de minimis.
2. Under Article II, Section 10 of the New Mexico Constitution, a government officer must obtain a valid warrant from a neutral and detached judge before exceeding the scope of a private search, unless an exception to the warrant requirement applies.
3. The plain-view doctrine did not authorize the officer to open the opaque bundles merely because their outward appearance and the officer's experience led him to believe they contained marijuana; a warrant or another valid exception was required.

KEY QUOTATIONS

"Under the Fourth Amendment of the United States Constitution, a law enforcement officer may repeat a private search and may exceed the scope of the private search, so long as (1) the expansion was only de minimus, and (2) obtaining a warrant would only minimally advance Fourth Amendment interests." (at 1101)

"Accordingly, under the New Mexico Constitution an officer must obtain a valid warrant from a neutral and detached judge to expand the private search absent an exception to the warrant requirement." (at 1101)

"We hold that unless there is an exception to the warrant requirement, the government must get a warrant before exceeding the scope of a private search." (at 1107)

"Absent an exception to the warrant requirement, the officer may not exceed the scope of the private party search without a warrant." (at 1108)

FACTUAL BACKGROUND

A sealed package addressed to Rivera was misdirected from Texas to Denver and then Albuquerque. Bus company employees in Denver allegedly opened the package and discovered a toolbox containing opaque bundles wrapped in brown plastic, but they did not open the bundles. After a DEA agent instructed the package to be resealed and sent to Albuquerque, a bus station manager reopened it in the agent's presence, and the agent

cut open one or more opaque bundles based on his training and experience that they contained marijuana. Rivera was arrested when she came to retrieve the package.

PROCEDURAL HISTORY

Rivera was charged with possession of a controlled substance with intent to distribute or, alternatively, possession of marijuana. The district court granted her motion to suppress the marijuana and her statements, finding state involvement in the handling and opening of the package, insufficiently reliable information supporting probable cause, and no exigent circumstances justifying the failure to obtain a warrant. After an earlier appeal concerning the Confrontation Clause, the Court of Appeals held that the search was valid under the private-search doctrine and remanded for further proceedings. The Supreme Court granted certiorari on whether opening the opaque bundle impermissibly expanded the private search, reversed the Court of Appeals, and affirmed suppression.

DISPOSITION

reversed

CASES CITED

- State v. Rivera, 2008-NMSC-056, 144 N.M. 836, 192 P.3d 1213
- State v. Rivera, 2009-NMCA-049, 146 N.M. 194, 207 P.3d 1171
- United States v. Jacobsen, 466 U.S. 109 (1984)
- Illinois v. Andreas, 463 U.S. 765 (1983)
- State v. Garcia, 2009-NMSC-046, 147 N.M. 134, 217 P.3d 1032
- State v. Gomez, 1997-NMSC-006, 122 N.M. 777, 932 P.2d 1
- State v. Gutierrez, 116 N.M. 431, 863 P.2d 1052 (1993)
- State v. Granville, 2006-NMCA-098, 140 N.M. 345, 142 P.3d 933
- State v. Santiago, 2009-NMSC-045, 147 N.M. 76, 217 P.3d 89
- State v. Johnston, 108 N.M. 778, 779 P.2d 556 (Ct. App. 1989)
- State v. Perea, 95 N.M. 777, 626 P.2d 851 (Ct. App. 1981)
- Walter v. United States, 447 U.S. 649 (1980)
- State v. Duffy, 1998-NMSC-014, 126 N.M. 132, 967 P.2d 807
- State v. Gallegos, 2007-NMSC-007, 141 N.M. 185, 152 P.3d 828
- State v. Mann, 103 N.M. 660, 712 P.2d 6 (Ct. App. 1985)
- State v. Nyce, 2006-NMSC-026, 139 N.M. 647, 137 P.3d 587
- State v. Williamson, 2009-NMSC-039, 146 N.M. 488, 212 P.3d 376
- State v. Ochoa, 2004-NMSC-023, 135 N.M. 781, 93 P.3d 1286
- State v. Vasquez, 112 N.M. 363, 815 P.2d 659 (Ct. App. 1991)
- State v. Johnson, 1996-NMCA-117, 122 N.M. 713, 930 P.2d 1165
- United States v. Corral, 970 F.2d 719 (10th Cir. 1992)

- State v. Wagoner, 2001-NMCA-014, 130 N.M. 274, 24 P.3d 306

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