

SUPREME COURT OF IOWA

State of Iowa v. Carl Ernest Bergmann, III

633 N.W.2d 328 (Iowa 2001) · No. No. 00-0778 · Decided September 6, 2001

SUMMARY

The Supreme Court of Iowa affirmed Carl Ernest Bergmann's conviction for possession of a controlled substance. The court held that the officer's pat-down and limited vehicle inspection were justified by reasonable suspicion, the brief detention for a canine sniff was reasonable, and the dog's alert established probable cause for the warrantless vehicle search.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Iowa                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Snell, Senior Judge                                                                                                                                                                                                                                                      |
| JURISDICTION          | Iowa                                                                                                                                                                                                                                                                     |
| DECIDED               | September 6, 2001                                                                                                                                                                                                                                                        |
| DOCKET                | No. 00-0778                                                                                                                                                                                                                                                              |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Appeal from the denial of a motion to suppress evidence seized during a traffic stop, canine sniff, and warrantless vehicle search, followed by conviction for possession of a controlled substance.                                                                     |
| STANDARD OF REVIEW    | Suppression rulings involving constitutional rights are reviewed de novo. The court independently evaluates the totality of the circumstances, while giving deference to the district court's factual findings because of its opportunity to assess witness credibility. |
| PRECEDENTIAL VALUE    | published precedential Iowa Supreme Court opinion                                                                                                                                                                                                                        |
| PARTIES               | Carl Ernest Bergmann, III v. State of Iowa                                                                                                                                                                                                                               |

TOPICS

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

PRACTICE AREAS

- criminal procedure
- constitutional law
- evidence
- appellate procedure

## QUESTIONS PRESENTED

1. Whether the pat-down of Bergmann and limited search under the driver's seat violated the Fourth Amendment or was preserved for appellate review.
2. Whether extending the traffic stop to wait for a drug-detection dog violated the Fourth Amendment.
3. Whether the dog's alert supplied probable cause and exigent circumstances for a warrantless search of the vehicle.
4. Whether any alleged constitutional violation from the initial pat-down tainted the later searches under the fruit-of-the-poisonous-tree doctrine.
5. Whether counsel was ineffective for failing to challenge the pat-down.

## HOLDINGS

1. The officer had reasonable suspicion that Bergmann might be armed and that his safety was at risk, justifying the pat-down and the limited inspection under the driver's seat.
2. Bergmann did not preserve a direct constitutional challenge to the pat-down because he did not raise it below and his counsel affirmatively acknowledged that the pat-down was permissible. The ineffective-assistance claim could nevertheless be considered, but counsel was not ineffective because a challenge would have been meritless and the pat-down did not produce evidence or prompt the later searches.
3. The detention was not unreasonably prolonged. A canine sniff of the exterior of a lawfully stopped vehicle is not a search, and the officer had reasonable suspicion of additional criminal wrongdoing to expand the traffic stop and wait for the dog, which arrived within minutes.
4. The reliable drug-detection dog's alert supplied probable cause to search the vehicle, and the vehicle's mobility supplied exigent circumstances under the automobile exception to the warrant requirement.

## KEY QUOTATIONS

*“The fruit of the poisonous tree doctrine bars evidence found in subsequent searches only when the evidence was found by virtue of the first illegality.”* (633 N.W.2d at 334)

*“When the purpose for the initial stop has concluded, in order to expand the scope further, reasonable suspicion of criminal wrongdoing must be present.”* (633 N.W.2d at 338)

## FACTUAL BACKGROUND

Officer Ken Dill stopped Bergmann after observing that his license-plate light was not functioning. Dill also knew Bergmann from a prior weapons and drug arrest, had seen him in an area known for drug activity near a narcotics dealer, and observed evasive, untruthful, nervous, and hurried behavior. Dill conducted a weapons pat-down and looked under the driver's seat, then summoned a drug-detection dog that arrived within minutes and alerted to narcotics in the vehicle. A subsequent search found marijuana and drug paraphernalia in the passenger compartment and trunk.

## PROCEDURAL HISTORY

Police stopped Bergmann for an unlit license-plate light, conducted a weapons pat-down and limited vehicle inspection, summoned a drug-detection dog, and searched the vehicle after the dog alerted. The district court denied Bergmann's suppression motion, admitted the marijuana and paraphernalia, and entered a conviction under Iowa Code section 124.401(5), sentencing him to 180 days in jail with 150 days suspended. The Supreme Court of Iowa affirmed.

## DISPOSITION

affirmed

## CASES CITED

- State v. Heminover, 619 N.W.2d 353, 356 (Iowa 2000)
- State v. Seager, 571 N.W.2d 204, 207 (Iowa 1997)
- State v. Canas, 597 N.W.2d 488, 492 (Iowa 1999)
- State v. Turner, 630 N.W.2d 601, 606 (Iowa 2001)
- State v. Schmidt, 312 N.W.2d 517, 518 (Iowa 1981)
- State v. Terry, 569 N.W.2d 364, 369 (Iowa 1997)
- State v. Button, 622 N.W.2d 480, 483 (Iowa 2001)
- Terry v. Ohio, 392 U.S. 1, 27, 30-31 (1968)
- Illinois v. Wardlow, 528 U.S. 119, 124-25 (2000)
- State v. Cline, 617 N.W.2d 277, 282-83 (Iowa 2000)
- State v. Riley, 501 N.W.2d 487, 490 (Iowa 1993)
- Michigan v. Long, 463 U.S. 1032, 1051 (1983)
- Wong Sun v. United States, 371 U.S. 471, 487-88 (1963)
- State v. Ceaser, 585 N.W.2d 192, 195 (Iowa 1998)
- United States v. \$404,905.00 in United States Currency, 182 F.3d 643, 647 (8th Cir. 1999)
- United States v. Place, 462 U.S. 696, 707 (1983)
- City of Indianapolis v. Edmond, 531 U.S. 32, 40 (2000)
- United States v. Jeffus, 22 F.3d 554, 557 (4th Cir. 1994)
- Casey v. State, 246 Ga. App. 786, 542 S.E.2d 531, 535 (2000)
- State v. Rusnak, 120 Ohio App. 3d 24, 696 N.E.2d 633, 636 (1997)
- State v. Aderholdt, 545 N.W.2d 559, 563-64 (Iowa 1996)
- United States v. Bloomfield, 40 F.3d 910, 915-17 (8th Cir. 1994)
- United States v. Cummins, 920 F.2d 498, 502 (8th Cir. 1990)
- United States v. Jacobsen, 466 U.S. 109, 125 n.25 (1984)
- United States v. Heir, 107 F. Supp. 2d 1088, 1094 (D. Neb. 2000)
- United States v. Ramos, 42 F.3d 1160, 1163 (8th Cir. 1994)
- United States v. Hunnicutt, 135 F.3d 1345, 1350 (10th Cir. 1998)

- State v. Lopez, 772 So. 2d 90, 93 (La. 2000)
- Sands v. State, 753 So. 2d 630, 632 (Fla. Dist. Ct. App. 2000)
- United States v. Sharpe, 470 U.S. 675, 684-87 (1985)
- United States v. Beck, 140 F.3d 1129, 1136-40 (8th Cir. 1998)
- Maxwell v. State, 785 So. 2d 1277, 1279-80 (Fla. Dist. Ct. App. 2001)
- State v. Brown, 691 So. 2d 637, 638 (Fla. Dist. Ct. App. 1997)
- Estrada v. State, 30 S.W.3d 599, 603 (Tex. App. 2000)
- Knowles v. Iowa, 525 U.S. 113, 117-18 (1998)
- United States v. Booker, 186 F.3d 1004, 1006 (8th Cir. 1999)
- United States v. Sundby, 186 F.3d 873, 876 (8th Cir. 1999)
- United States v. Massie, 65 F.3d 843, 849 (10th Cir. 1995)
- State v. Kubit, 627 N.W.2d 914, 918 (Iowa 2001)
- State v. Cadotte, 542 N.W.2d 834, 836 (Iowa 1996)
- State v. Predka, 555 N.W.2d 202, 207 (Iowa 1996)
- State v. Tucker, 132 Idaho 841, 979 P.2d 1199, 1201 (1999)
- State v. Dawdy, 533 N.W.2d 551, 556 (Iowa 1995)
- Kyllo v. United States, 533 U.S. 27 (2001)
- Payton v. New York, 445 U.S. 573, 585, 590 (1980)