

SUPREME COURT OF SOUTH DAKOTA

State of South Dakota v. Uriah Tullous

692 N.W.2d 790 (S.D. 2005) · No. No. 23084 · Decided January 12, 2005

SUMMARY

The Supreme Court of South Dakota held that Uriah Tullous, a regular social guest in the searched residence, had a reasonable expectation of privacy sufficient to challenge the search warrant. Because the search violated his Fourth Amendment rights, the court ordered suppression of the evidence obtained in the search and reversed his convictions. The court did not reach the issues concerning bodily-fluid evidence, rehearing of the suppression motion, or the requested misdemeanor-ingestion jury instruction.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Sabers, Justice; Gilbertson, Chief Justice; Konenkamp, Justice; Zinter, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	January 12, 2005
DOCKET	No. 23084
DISPOSITION	reversed
PROCEDURAL POSTURE	Tullous was convicted by a jury of possession of methamphetamine and possession of two ounces or less of marijuana. He appealed the denial of his suppression motion, denial of a rehearing, and refusal to submit misdemeanor ingestion as a lesser-included offense.
STANDARD OF REVIEW	A suppression motion based on an alleged constitutional violation is reviewed de novo. The trial court's factual findings are reviewed for clear error, while application of the legal standard to those facts is reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Uriah Tullous v. State of South Dakota

TOPICS

- search and seizure
- fourth amendment
- suppression of evidence
- criminal procedure
- appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether Tullous had a reasonable expectation of privacy in Hall's home sufficient to challenge the search under the Fourth Amendment.
2. Whether the trial court erred in refusing to suppress bodily-fluid evidence obtained without a warrant.
3. Whether the trial court erred in refusing to grant a rehearing of the suppression motion.
4. Whether the trial court erred in refusing to instruct the jury on misdemeanor ingestion as a lesser-included offense of possession.

HOLDINGS

1. A regular social guest who has ready access to a residence, regularly stays overnight, and maintains a longstanding friendship with the homeowner has a reasonable expectation of privacy in the home that society is prepared to recognize as reasonable. Tullous therefore had Fourth Amendment standing to challenge the search, and the evidence obtained through the illegal search had to be suppressed.

KEY QUOTATIONS

“Under this Court's reasoning in Hess and the cases cited therein, Tullous was a regular “social guest” at the Hall home and therefore had a reasonable expectation of privacy in the home that society is willing to honor.” (692 N.W.2d at 794)

“Tullous's Fourth Amendment rights were violated by the illegal search of an area in which he had a reasonable expectation of privacy. Therefore, all the evidence obtained by the illegal search is ordered suppressed and the convictions are reversed.” (692 N.W.2d at 794)

FACTUAL BACKGROUND

Law enforcement executed a search warrant at Brad Hall's trailer home based on information from Hall's girlfriend. Tullous, a longtime friend of Hall, had ready access to the residence, knew where a house key was hidden, had used the key to enter when Hall was away, regularly stayed overnight, and sometimes babysat Hall's children. Officers pursued Tullous inside the home and discovered evidence that led to his possession convictions.

PROCEDURAL HISTORY

A search warrant was executed at Brad Hall's home, and Tullous was arrested after officers pursued him inside the trailer. The trial court denied Tullous's motion to suppress evidence from the home, concluding that he lacked standing to challenge the search, and later denied a rehearing and a requested lesser-included-offense instruction. After convictions on both possession counts, Tullous appealed. The South Dakota Supreme Court held that he had a reasonable expectation of privacy in the home, ordered suppression of the evidence, and reversed the convictions without reaching the remaining issues.

DISPOSITION

reversed

CASES CITED

- State v. Hodges, 2001 SD 93, ¶ 8, 631 N.W.2d 206, 209
- State v. Stanga, 2000 SD 129, ¶ 8, 617 N.W.2d 486, 488
- State v. Cummings, 2004 SD 56, ¶ 6, 679 N.W.2d 484, 486
- Katz v. United States, 389 U.S. 347, 88 S. Ct. 507, 19 L. Ed. 2d 576 (1967)
- Rakas v. Illinois, 439 U.S. 128, 133-34, 99 S. Ct. 421, 58 L. Ed. 2d 387 (1978)
- Minnesota v. Carter, 525 U.S. 83, 88, 119 S. Ct. 469, 142 L. Ed. 2d 373 (1998)
- Minnesota v. Olson, 495 U.S. 91, 97-98, 110 S. Ct. 1684, 109 L. Ed. 2d 85 (1990)
- State v. Hess, 2004 SD 60, 680 N.W.2d 314
- State v. Westerfield