

SUPREME COURT OF ARKANSAS

Travis Wayne Davis, Jr. v. State of Arkansas

367 Ark. 341 (2006) (Ark. 2006) · No. CR 06-91 · Decided September 28, 2006

SUMMARY

The Supreme Court of Arkansas affirmed the denial of Travis Wayne Davis, Jr.'s motion to suppress items seized during a nighttime search of his business. The court held that Davis failed to prove that the issuing judge was not a neutral and detached magistrate, despite the judge's prior recusal from Davis's cases because Davis's son had been charged with burglarizing the judge's home. The court concluded that the record did not demonstrate actual bias or an inability to determine probable cause impartially.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Donald L. Corbin
JURISDICTION	Arkansas
DECIDED	September 28, 2006
DOCKET	CR 06-91
DISPOSITION	affirmed
PROCEDURAL POSTURE	Davis entered a conditional guilty plea reserving his right to appeal the denial of his motion to suppress evidence seized during a nighttime search of his business. The Supreme Court of Arkansas assumed jurisdiction because the appeal involved a significant issue requiring clarification of the law.
STANDARD OF REVIEW	The denial of a motion to suppress is reviewed de novo based on the totality of the circumstances, and the ruling is reversed only if it is clearly against the preponderance of the evidence.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Travis Wayne Davis, Jr. v. State of Arkansas

TOPICS

- suppression of evidence
- search and seizure
- warrant requirement
- probable cause
- appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

search and seizure

appellate procedure

QUESTIONS PRESENTED

1. Whether a search warrant is invalid because the issuing judge had previously recused from the defendant's cases due to a possible appearance of impropriety.
2. Whether Davis established that the issuing judge was not a neutral and detached magistrate or was actually biased when issuing the warrant.

HOLDINGS

1. A judge's prior recusal from the defendant's cases, undertaken to avoid an appearance of impropriety, does not by itself establish that the judge was not neutral and detached when later issuing a search warrant.

KEY QUOTATIONS

"He must be neutral and detached, and he must be capable of determining whether probable cause exists for the requested arrest or search." (at 112)

"Judges are presumed to be impartial, and the party seeking disqualification has the burden of showing otherwise." (at 114)

FACTUAL BACKGROUND

Authorities suspected that Davis was manufacturing methamphetamine at his business, Core, Inc., in Lonoke County. Detective Barry Flannery submitted an affidavit establishing probable cause for a nighttime search warrant, and Judge Lance Hanshaw signed the warrant after reviewing the affidavit. Judge Hanshaw had previously recused from Davis's cases to avoid an appearance of impropriety because Davis's son had been charged with burglarizing the judge's home, but Davis presented no evidence that Hanshaw knew the warrant's subject was the same Davis or that Hanshaw was actually biased when issuing the warrant.

PROCEDURAL HISTORY

After a circuit judge issued a nighttime search warrant for Davis's business, officers seized items associated with methamphetamine manufacture. Davis moved to suppress, arguing that the issuing judge was not neutral and detached because the judge had previously recused from Davis's cases after Davis's son was charged with burglarizing the judge's home. The Lonoke County Circuit Court denied suppression. Davis then entered a guilty plea under Arkansas Rule of Criminal Procedure 24.3(b), reserving the suppression issue for appeal. The Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Dickinson v. State, 367 Ark. 102, 238 S.W.3d 125 (2006)
- Shadwick v. City of Tampa, 407 U.S. 345, 92 S. Ct. 2119, 32 L. Ed. 2d 783 (1972)
- Connally v. Georgia, 429 U.S. 245, 97 S. Ct. 546, 50 L. Ed. 2d ' (1977)
- Coolidge v. New Hampshire, 403 U.S. 443, 91 S. Ct. 2022, 29 L. Ed. 2d 564 (1971)
- Stewart v. State, 289 Ark. 272, 711 S.W.2d 787 (1986)
- Starr v. State, 297 Ark. 26, 759 S.W.2d 535 (1988)
- Echols v. State, 326 Ark. 917, 936 S.W.2d 509 (1996)
- State v. McBride, 187 Wis. 2d 409, 523 N.W.2d 106 (Wis. Ct. App. 1994)
- Perroni v. State, 358 Ark. 17, 186 S.W.3d 206 (2004), cert. denied, 543 U.S. 1150, 125 S. Ct. 1317, 161 L. Ed. 2d 112 (2005)
- Holder v. State, 354 Ark. 364, 376, 124 S.W.3d 439, 447-48 (2003)
- United States v. Mathison, 157 F.3d 541 (8th Cir. 1998)
- Steinmetz v. State, 366 Ark. 222, 234 S.W.3d 302 (2006)