

SUPREME COURT OF COLORADO

People v. Baltazar

241 P.3d 941 (Colo. 2010) · No. No. 10SA101 · Decided November 8, 2010

SUMMARY

The Colorado Supreme Court reviewed a district court order permitting a criminal defendant to seek ex parte subpoenas duces tecum and withhold certain resulting information from the prosecution. The court held that the defendant had no constitutional right to use subpoenas as a pretrial investigative tool or to bypass Colorado Rule of Criminal Procedure 17(c)'s notice requirements, made the rule absolute, and remanded the case.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Coats
JURISDICTION	Colorado
DECIDED	November 8, 2010
DOCKET	No. 10SA101
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The People petitioned the Colorado Supreme Court for relief under C.A.R. 21 from a district court order authorizing the defendant to seek ex parte subpoenas duces tecum and to withhold certain information from the prosecution.
STANDARD OF REVIEW	Relief under C.A.R. 21 is discretionary and is appropriate to correct an abuse of discretion or excess of jurisdiction when ordinary appellate review would be inadequate.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Colorado; precedential.
PARTIES	The People of the State of Colorado v. Theresa Baltazar

TOPICS

criminal procedure

discovery criminal

sixth amendment

fifth amendment

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Colorado Rules of Criminal Procedure permit a defendant to obtain ex parte subpoenas duces tecum and exclusive pretrial access to subpoenaed information.
2. Whether the Fifth or Sixth Amendments constitutionally entitle a criminal defendant to use subpoenas duces tecum as an investigative tool without giving notice to the prosecution.
3. Whether the Colorado Supreme Court should exercise original jurisdiction under C.A.R. 21 to review the district court's order.

HOLDINGS

1. The Colorado Supreme Court may exercise original jurisdiction under C.A.R. 21 because the district court's novel constitutional ruling had broad implications for criminal investigations and ordinary appellate review would be inadequate.
2. Colorado Rule of Criminal Procedure 17(c) does not permit a criminal defendant to obtain ex parte subpoenas duces tecum, to receive subpoenaed materials solely for the defendant's benefit, or to use subpoenas as a pretrial discovery or investigative tool.
3. The Fifth and Sixth Amendments do not give a criminal defendant a general constitutional right to conduct a secret pretrial search for evidence through ex parte subpoenas duces tecum.
4. Due process does not provide a general entitlement to investigate or obtain all potentially useful evidence; the recognized entitlement concerns evidence and witnesses constitutionally material and favorable to the accused.

KEY QUOTATIONS

"It does not, however, provide for expanded discovery." (241 P.3d at 943)

"the Compulsory Process Clause, as distinguished from the Due Process Clause, has never been found by the Court to guarantee access to evidence more generally." (241 P.3d at 944)

"Both this court and the United States Supreme Court have emphasized that their respective rules permit subpoenas only for the production of "evidence"—not as an investigative tool." (241 P.3d at 944)

FACTUAL BACKGROUND

Theresa Baltazar was charged with distribution of a controlled substance, attempted distribution of a controlled substance, distribution of marijuana, conspiracy, and accessory to crime. She argued that Rule 17(c)'s requirement that a copy of a subpoena be provided to opposing counsel would expose damaging defense-investigation information and infringe her Fifth Amendment privilege and Sixth Amendment rights. The district court authorized ex parte subpoena applications, in-camera review, return of subpoenas to the defendant, and limited disclosure of information obtained through the process.

PROCEDURAL HISTORY

Baltazar was charged with several controlled-substance and related offenses and moved for permission to issue ex parte subpoenas duces tecum. The district court granted the motion, allowing in-camera consideration and relieving her of the notice requirement in Colorado Rule of Criminal Procedure 17(c), while limiting disclosure of subpoenaed information. The Colorado Supreme Court issued a rule to show cause, made the rule absolute, and remanded for further proceedings.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The rule to show cause was made absolute, and the case was remanded to the district court for further proceedings consistent with the opinion.

CASES CITED

- People v. Dist. Court, 869 P.2d 1281, 1285 (Colo. 1994)
- Paul v. People, 105 P.3d 628, 633 (Colo. 2005)
- People v. Lee, 18 P.3d 192, 195 (Colo. 2001)
- People v. Spykstra, 234 P.3d 662, 667-669, 671 (Colo. 2010)
- United States v. Beckford, 964 F. Supp. 1010, 1026 n.21, 1027, 1030 (E.D. Va. 1997)
- United States v. Daniels, 95 F. Supp. 2d 1160, 1162 (D. Kan. 2000)
- United States v. Tomison, 969 F. Supp. 587, 591 (E.D. Cal. 1997)
- United States v. Najarian, 164 F.R.D. 484, 487 (D. Minn. 1995)
- United States v. Ashley, 162 F.R.D. 265, 267 (E.D.N.Y. 1995)
- United States v. Hart, 826 F. Supp. 380, 381 (D. Colo. 1993)
- United States v. Urlacher, 136 F.R.D. 550, 556 (W.D.N.Y. 1991)
- Weatherford v. Bursey, 429 U.S. 545, 559 (1977)
- Pennsylvania v. Ritchie, 480 U.S. 39, 52, 56 (1987)
- Maryland v. Craig, 497 U.S. 836, 850 (1990)
- Taylor v. Illinois, 484 U.S. 400, 415-416 (1988)
- Washington v. Texas, 388 U.S. 14, 23 (1967)
- Arizona v. Youngblood, 488 U.S. 51, 55 (1988)
- United States v. Bagley, 473 U.S. 667, 675 (1985)
- United States v. Valenzuela-Bernal, 458 U.S. 858, 874 (1982)
- Strickland v. Washington, 466 U.S. 668, 690 (1984)
- United States v. Nixon, 418 U.S. 683, 698 (1974)
- In re Martin Marietta Corp., 856 F.2d 619, 621 (4th Cir. 1988)

