

SUPREME COURT OF INDIANA

Grier v. State

868 N.E.2d 443 (Ind. 2007) · No. 49S05-0702-CR-68 · Decided June 21, 2007

SUMMARY

The Indiana Supreme Court held that police use of force on a detainee's throat to prevent the swallowing of suspected contraband violated the unreasonable-search-and-seizure protection in Article 1, Section 11 of the Indiana Constitution. Applying the Litchfield totality-of-the-circumstances framework and adopting a general rule from Conwell, the court ordered suppression of the evidence and reversed the denial of the defendant's motion to suppress.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Justice Dickson; Chief Justice Shepard; Justice Sullivan; Justice Boehm; Justice Rucker
JURISDICTION	Indiana
DECIDED	June 21, 2007
DOCKET	49S05-0702-CR-68
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant sought interlocutory appellate review of the denial of his motion to suppress evidence. The Indiana Court of Appeals affirmed, and the Indiana Supreme Court granted transfer.
STANDARD OF REVIEW	Under Article 1, section 11 of the Indiana Constitution, the reasonableness of a search or seizure is assessed under the totality of the circumstances by balancing the degree of concern, suspicion, or knowledge of a violation; the degree of intrusion on the citizen's ordinary activities; and the extent of law-enforcement needs.
PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential and binding on Indiana courts.
PARTIES	John Grier v. State of Indiana

TOPICS

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

PRACTICE AREAS

Criminal procedure

Constitutional law

Search and seizure

Evidence and suppression

QUESTIONS PRESENTED

1. Whether police use of physical force against a detainee's throat to prevent the detainee from swallowing suspected contraband violated Article 1, section 11 of the Indiana Constitution.
2. Whether the evidence obtained through that conduct should be suppressed.

HOLDINGS

1. The application of force to a detainee's throat to prevent the swallowing of suspected contraband violates Article 1, section 11's prohibition against unreasonable search and seizure.
2. Evidence obtained as a result of the unconstitutional application of physical force to Grier's throat must be suppressed.

KEY QUOTATIONS

"The application of force to a detainee's throat to prevent swallowing of suspected contraband violates the constitutional prohibitions against unreasonable search and seizure." (445)

"We therefore hold that the trial court should have granted the defendant's motion to suppress evidence obtained by the application of physical force to his throat to prevent him from swallowing it." (445)

FACTUAL BACKGROUND

Police stopped Grier after observing that his vehicle had an expired license plate. During the encounter, an officer observed that Grier was sweating, crying, reluctant to answer questions, gagging, and holding a clear plastic bag in his mouth that was covered in blood and saliva. When Grier refused to spit out the bag, the officer grabbed him by the throat and applied pressure for approximately fifteen to twenty seconds to prevent him from swallowing it, after which Grier spit the bag onto the sidewalk.

PROCEDURAL HISTORY

Grier was charged with possession of three or more grams of cocaine, a Class C felony. The trial court denied his motion to suppress evidence obtained after a police officer grabbed his throat to prevent him from swallowing a plastic bag suspected of containing cocaine and certified the ruling for interlocutory appeal. The Court of Appeals accepted jurisdiction and affirmed, after which the Supreme Court granted transfer because the decision might conflict with *Conwell v. State*.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was directed to grant Grier's motion to suppress evidence obtained through the application of physical force to his throat and to conduct further proceedings consistent with the opinion.

CASES CITED

- State v. Gerschoffer, 763 N.E.2d 960, 965 (Ind. 2002)
- Holder v. State, 847 N.E.2d 930, 940 (Ind. 2006)
- Litchfield v. State, 824 N.E.2d 356, 361 (Ind. 2005)
- Trimble v. State, 842 N.E.2d 798, 803 (Ind. 2006)
- Conwell v. State, 714 N.E.2d 764, 768 (Ind. Ct. App. 1999)
- Adams v. State, 762 N.E.2d 737, 745-46 (Ind. 2002)
- Jones v. State, 655 N.E.2d 49, 54 (Ind. 1995)
- Brown v. State, 653 N.E.2d 77, 80 (Ind. 1995)
- Shultz v. State, 742 N.E.2d 961, 966 (Ind. Ct. App. 2001)
- Grier v. State, 855 N.E.2d 1043 (Ind. Ct. App. 2006)