

SUPREME COURT OF THE UNITED STATES

Simmons v. United States

390 U.S. 377 (1968) · No. No. 55 · Decided March 18, 1968

SUMMARY

The Supreme Court affirmed Simmons's conviction, holding that the photographic identification procedure was not impermissibly suggestive under the totality of the circumstances and that the requested photographs were not producible under the Jencks Act on the record presented. The Court reversed Garrett's conviction, holding that testimony given by a defendant to establish standing for a Fourth Amendment suppression motion may not later be admitted against him on the issue of guilt unless he waives the objection. Justice Black concurred in part and dissented in part.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Harlan; Justice Black; Justice Marshall; Justice White
JURISDICTION	Federal
DECIDED	March 18, 1968
DOCKET	No. 55
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioners sought review by certiorari of the Seventh Circuit's affirmance of their federal armed-robbery convictions. The Supreme Court affirmed as to Simmons and reversed as to Garrett.
STANDARD OF REVIEW	The Court evaluated the photographic-identification claim under the totality of the surrounding circumstances and reviewed the district court's refusal to order production of the photographs for abuse of discretion. The constitutional admissibility of testimony given to establish Fourth Amendment standing was reviewed as a legal question.
PRECEDENTIAL VALUE	United States Supreme Court precedent
PARTIES	Simmons, Garrett v. United States

TOPICS

- suppression of evidence
- fourth amendment
- fifth amendment
- criminal procedure
- due process

PRACTICE AREAS

criminal procedure

constitutional criminal procedure

evidence

QUESTIONS PRESENTED

1. Whether Simmons's conviction violated due process because the pretrial photographic-identification procedure was impermissibly suggestive and created a substantial likelihood of irreparable misidentification.
2. Whether the photographs shown to eyewitnesses before trial were producible under the Jencks Act, 18 U.S.C. § 3500, or whether the district court abused its discretion by refusing to order their production.
3. Whether a defendant's testimony given to establish standing in support of a Fourth Amendment suppression motion may later be admitted against the defendant on the issue of guilt.

HOLDINGS

1. A conviction based on an eyewitness identification following a pretrial photographic identification may be set aside on due-process grounds only when the photographic procedure was so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification. The procedure used to identify Simmons did not meet that standard.
2. The photographs were not producible under 18 U.S.C. § 3500 because they were not part of the witnesses' written statements made and approved before the photographs were obtained. The district court did not abuse its discretion by refusing to order production at trial under the circumstances presented.
3. When a defendant testifies in support of a motion to suppress evidence on Fourth Amendment grounds, the testimony may not thereafter be admitted against the defendant at trial on the issue of guilt unless the defendant makes no objection.

KEY QUOTATIONS

“Instead, we hold that each case must be considered on its own facts, and that convictions based on eyewitness identification at trial following a pretrial identification by photograph will be set aside on that ground only if the photographic identification procedure was so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification.” (390 U.S. at 384)

“We therefore hold that when a defendant testifies in support of a motion to suppress evidence on Fourth Amendment grounds, his testimony may not thereafter be admitted against him at trial on the issue of guilt unless he makes no objection.” (390 U.S. at 394)

FACTUAL BACKGROUND

Five bank employees witnessed an armed robbery and identified Simmons from photographs shown by FBI agents the following day and later identified him in court. Garrett was identified by fewer witnesses as the other robber. FBI agents searched a house without a warrant, under disputed circumstances concerning consent, and found a suitcase containing a holster, a sack resembling the robbery sack, and bank materials; Garrett testified at

a suppression hearing that he owned the suitcase or clothing found in it to establish standing. The district court admitted that testimony against Garrett at trial and denied production of the identification photographs.

PROCEDURAL HISTORY

Simmons, Garrett, and William Andrews were indicted and tried in the United States District Court for the Northern District of Illinois for armed robbery of a federally insured savings and loan association. The district court denied Garrett's motion to suppress a suitcase and its contents, admitted Garrett's suppression-hearing testimony at trial, denied requests for production of identification photographs under the Jencks Act, and the jury convicted all three defendants. The Seventh Circuit affirmed the convictions of Simmons and Garrett but reversed Andrews's conviction for insufficient evidence. The Supreme Court granted certiorari as to Simmons and Garrett.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment was affirmed as to Simmons. Garrett's conviction was reversed, and the case was remanded to the Court of Appeals for further proceedings consistent with the opinion.

CASES CITED

- United States v. Wade, 388 U.S. 218 (1967)
- Gilbert v. California, 388 U.S. 263 (1967)
- Stovall v. Denno, 388 U.S. 293, 301-302 (1967)
- Palmer v. Peyton, 359 F.2d 199 (4th Cir. 1966)
- People v. Evans, 39 Cal. 2d 242, 246 P.2d 636 (1952)
- Jencks v. United States, 353 U.S. 657 (1957)
- Weeks v. United States, 232 U.S. 383 (1914)
- Mapp v. Ohio, 367 U.S. 643, 657 (1961)
- Jones v. United States, 362 U.S. 257, 260-262 (1960)
- Linkletter v. Walker, 381 U.S. 618 (1965)
- Warden v. Hayden, 387 U.S. 294 (1967)
- Gouled v. United States, 255 U.S. 298 (1921)
- Camara v. Municipal Court, 387 U.S. 523 (1967)
- Frank v. Maryland, 359 U.S. 360 (1959)
- United States v. Rabinowitz, 339 U.S. 56, 63 (1950)
- Heller v. United States, 57 F.2d 627 (7th Cir. 1932)
- Kaiser v. United States, 60 F.2d 410 (7th Cir. 1932)
- Fowler v. United States, 239 F.2d 93 (10th Cir. 1956)

- *Monroe v. United States*, 320 F.2d 277 (5th Cir. 1963)
- *United States v. Taylor*, 326 F.2d 277 (4th Cir. 1964)
- *United States v. Airdo*, 380 F.2d 103 (5th Cir. 1967)
- *United States v. Lindsly*, 7 F.2d 247 (7th Cir. 1925), rev'd on other grounds, 12 F.2d 771 (7th Cir. 1926)
- *Bailey v. United States*, 128 U.S. App. D.C. 354, 389 F.2d 305 (D.C. Cir. 1967)
- *United States v. Lewis*, 270 F. Supp. 807, 810 n.1 (E.D. Pa. 1967)
- *Safarik v. United States*, 62 F.2d 892 (8th Cir. 1932), reh'g denied, 63 F.2d 369 (8th Cir. 1933)
- *Fabri v. United States*, 24 F.2d 185 (6th Cir. 1928)