

SUPREME COURT OF COLORADO

People v. McKnight

2019 CO 36 (2019) · No. 17SC584 · Decided May 20, 2019

SUMMARY

The Colorado Supreme Court held that a drug-detection dog trained to alert to marijuana conducts a search under article II, section 7 of the Colorado Constitution because the sniff can detect lawful marijuana possession. The court further held that officers must have probable cause to believe an item or area contains a drug unlawful under state law before deploying such a dog for an exploratory sniff. Because officers lacked probable cause to sniff McKnight's truck or conduct the resulting hand search, the court affirmed the reversal of his convictions and required exclusion of the evidence.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Hood; Chief Justice Coats; Justice Gabriel; Justice Boatright; Justice Márquez; Justice Hart; Justice Samour
JURISDICTION	Colorado
DECIDED	May 20, 2019
DOCKET	17SC584
DISPOSITION	affirmed
PROCEDURAL POSTURE	The People petitioned for certiorari review of the Colorado Court of Appeals' decision reversing McKnight's convictions after the trial court denied his motion to suppress evidence discovered during a warrantless dog sniff and hand search of his truck.
STANDARD OF REVIEW	The court defers to the trial court's factual findings when supported by the record but reviews its legal conclusions and the constitutionality of the searches de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The People of the State of Colorado v. Kevin Keith McKnight

TOPICS

[search and seizure](#)[fourth amendment](#)[probable cause](#)[suppression of evidence](#)[criminal procedure](#)

PRACTICE AREAS

criminal procedure

constitutional law

search and seizure

suppression of evidence

QUESTIONS PRESENTED

1. Whether a drug-detection dog's exploratory sniff of a vehicle constitutes a search under article II, section 7 of the Colorado Constitution when the dog is trained to alert to marijuana that may be lawfully possessed under Colorado law.
2. What level of suspicion is required before law enforcement may deploy such a dog for an exploratory sniff.
3. Whether officers had probable cause to deploy the dog and conduct the subsequent hand search of McKnight's truck.
4. Whether exclusion of the pipe was the appropriate remedy for the violation of the Colorado Constitution.

HOLDINGS

1. An exploratory sniff by a drug-detection dog trained to alert to marijuana constitutes a search under article II, section 7 of the Colorado Constitution because the sniff can detect lawful possession of up to one ounce of marijuana by adults at least twenty-one years old.
2. Before deploying a drug-detection dog trained to alert to marijuana for an exploratory sniff in Colorado, law enforcement must have probable cause to believe that the item or area contains a drug in violation of state law.
3. The officers lacked probable cause to believe that McKnight's truck contained drugs in violation of Colorado law before deploying the dog, and the subsequent hand search also lacked probable cause.
4. Exclusion of evidence is an appropriate remedy for a violation of article II, section 7 of the Colorado Constitution.

KEY QUOTATIONS

“We hold that a sniff from a drug-detection dog that is trained to alert to marijuana constitutes a search under article II, section 7 of the Colorado Constitution because that sniff can detect lawful activity, namely the legal possession of up to one ounce of marijuana by adults twenty-one and older.” (¶ 7)

“We further hold that, in Colorado, law enforcement officers must have probable cause to believe that an item or area contains a drug in violation of state law before deploying a drug-detection dog that alerts to marijuana for an exploratory sniff.” (¶ 7)

“To the extent that we have not yet explicitly embraced the exclusionary rule as a remedy for violations of article II, section 7, we do so now.” (¶ 61)

FACTUAL BACKGROUND

Police Officer Bryan Gonzales stopped Kevin McKnight's truck after observing that McKnight failed to signal a turn. Before the stop, Gonzales had seen the truck parked near a residence where drugs had been found nearly two months earlier, and he recognized McKnight's passenger as someone who had used methamphetamine at some point in the past. During the stop, a drug-detection dog trained to alert to marijuana, methamphetamine, cocaine, heroin, and ecstasy alerted at the driver's door. Officers then hand-searched the truck and found a pipe containing methamphetamine residue.

PROCEDURAL HISTORY

Police stopped McKnight for failing to signal a turn, deployed a drug-detection dog trained to alert to marijuana and other drugs, and searched his truck after the dog alerted. The trial court denied McKnight's suppression motion, and a jury convicted him of possession of a controlled substance and possession of drug paraphernalia. The court of appeals unanimously reversed, concluding that the evidence should have been suppressed and that the error was not harmless. The Colorado Supreme Court granted the People's petition for certiorari and affirmed the court of appeals.

DISPOSITION

affirmed

CASES CITED

- People v. Esparza, 2012 CO 22, 272 P.3d 367
- People v. Zuniga, 2016 CO 52, 372 P.3d 1052
- People v. Cox, 2017 CO 8, 401 P.3d 509
- Illinois v. Caballes, 543 U.S. 405 (2005)
- United States v. Place, 462 U.S. 696 (1983)
- Katz v. United States, 389 U.S. 347 (1967)
- Kyllo v. United States, 533 U.S. 27 (2001)
- People v. Unruh, 713 P.2d 370 (Colo. 1986)
- People v. Haley, 41 P.3d 666 (Colo. 2001)
- People v. Charnes, 612 P.2d 1117 (Colo. 1980)
- People v. Sporleder, 666 P.2d 135 (Colo. 1983)
- People v. Corr, 682 P.2d 20 (Colo. 1984)
- People v. Oates, 698 P.2d 811 (Colo. 1985)
- People v. Mendez, 986 P.2d 275 (Colo. 1999)
- People v. Outlaw, 17 P.3d 150 (Colo. 2001)
- People v. Miller, 75 P.3d 1108 (Colo. 2003)
- Grassi v. People, 2014 CO 12, 320 P.3d 332
- Florida v. Harris, 568 U.S. 237 (2013)
- Rodriguez v. United States, 135 S. Ct. 1609 (2015)

- Florida v. Jardines, 569 U.S. 1 (2013)

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