

SUPREME COURT OF SOUTH DAKOTA

State v. Mattson, 2005 SD 71

698 N.W.2d 538 (2005) · No. No. 23257 · Decided June 8, 2005

SUMMARY

The Supreme Court of South Dakota affirmed Henry L. Mattson III's conviction for possession of methamphetamine. The court held that evidence of Mattson's prior methamphetamine use was admissible for purposes including knowledge, intent, and absence of mistake, and that the canine sniff did not impermissibly extend the traffic stop. The opinion also addresses the admission of evidence concerning Mattson's refusal to provide a urine sample after arrest.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gilbertson, Chief Justice; Sabers, Justice; Konenkamp, Justice; Zinter, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	June 8, 2005
DOCKET	No. 23257
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mattson appealed his conviction for unauthorized possession of a controlled substance and habitual-offender sentence, challenging the admission of other-acts evidence, the denial of his motion to suppress evidence obtained after a drug-dog sniff of the vehicle, the admission of his refusal to provide a post-arrest urine sample, and the related jury instruction.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion, and any error must be prejudicial. Constitutional suppression rulings are reviewed de novo; underlying factual findings are reviewed for clear error, while application of the legal standard to established facts is reviewed de novo. Jury instructions are reviewed as a whole for a full and correct statement of the law, and instructional error must be prejudicial to warrant reversal.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of South Dakota.

TOPICS

suppression of evidence

fourth amendment

search and seizure

evidence

criminal procedure

PRACTICE AREAS

criminal law

criminal procedure

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by admitting evidence of Mattson's prior methamphetamine use and prior positive urinalysis to prove knowledge, intent, and absence of mistake.
2. Whether the Fourth Amendment was violated when an offsite canine unit arrived during a valid traffic stop and initiated a drug-dog sniff before the traffic stop was completed.
3. Whether the Fifth Amendment barred admission of Mattson's refusal to provide a urine sample after his arrest for possession of a controlled substance.
4. Whether the jury instruction concerning Mattson's refusal to submit to urinalysis was a correct and nonprejudicial statement of law.

HOLDINGS

1. Other-acts evidence of Mattson's prior methamphetamine use and positive urinalysis was admissible for the noncharacter purposes of proving knowledge, intent, and absence of mistake because those matters were material to the knowing-possession charge and the evidence's probative value was not substantially outweighed by unfair prejudice.
2. The drug-dog sniff did not violate the Fourth Amendment because the vehicle was lawfully stopped for a speeding violation, the sniff occurred before the traffic stop was completed, and the brief exterior sniff did not impermissibly extend the stop.
3. A defendant's refusal to submit to a lawfully requested urinalysis in a drug-possession case is non-testimonial conduct, is not protected by the Fifth Amendment privilege against self-incrimination, and may be admitted at trial even without a warning that the refusal could be used as evidence.
4. The jury instruction stating that Mattson's refusal could be considered, but was not by itself sufficient to establish guilt, was a full and correct statement of the law and was not shown to be prejudicial.

KEY QUOTATIONS

"We reaffirm our holding in De La Rosa, that a few seconds delay for a non-entry sniffing of the exterior of a vehicle by a drug dog already on the scene is constitutionally reasonable." (¶ 34, 698 N.W.2d at 550)

"Therefore, in drug offense cases, just as in alcohol-related offenses, the refusal by a defendant of an officer's legitimate request to take a urinalysis is not protected by the Fifth Amendment right against self-incrimination, and such a refusal by a defendant is admissible at trial." (¶ 45, 698 N.W.2d at 552)

FACTUAL BACKGROUND

A vehicle traveling eighty-six miles per hour in a fifty-five-mile-per-hour zone was stopped by a South Dakota Highway Patrol trooper. Before the traffic stop was completed, a canine unit arrived and conducted an exterior drug sniff, during which the dog alerted; officers then found methamphetamine, syringes, and a scale in the vehicle, although the items had no specific indicia of ownership. Mattson had apparent track marks on his arm, was arrested for possession, and refused to provide a urine sample. At trial, the State also introduced evidence that Mattson had used methamphetamine and had tested positive for it approximately four months earlier.

PROCEDURAL HISTORY

Mattson was charged under SDCL 22-42-5, pleaded not guilty, and was tried before a jury on March 16, 2004. The trial court admitted evidence of his prior methamphetamine use, denied suppression of the evidence found after the canine sniff, admitted evidence of his refusal to submit to urinalysis, and gave a jury instruction concerning that refusal. The jury convicted him, and he was sentenced as a habitual offender to five years in prison. The Supreme Court of South Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Goodroad, 1997 SD 46, ¶ 9, 563 N.W.2d 126, 129
- State v. De La Rosa, 2003 SD 18, 657 N.W.2d 683
- Illinois v. Caballes, 543 U.S. 405, 125 S. Ct. 834, 160 L. Ed. 2d 842 (2005)
- State v. McDonald, 500 N.W.2d 243, 245-246 (S.D. 1993)
- State v. Anderson, 2000 SD 45, ¶¶ 92-93, 608 N.W.2d 644, 669-670
- State v. Christensen, 2003 SD 64, ¶ 27, 663 N.W.2d 691, 698
- State v. Hanson, 1999 SD 9, ¶¶ 16, 36, 43, 588 N.W.2d 885, 890-894
- South Dakota v. Neville, 459 U.S. 553, 563-566, 103 S. Ct. 916, 74 L. Ed. 2d 748 (1983)
- Schmerber v. California, 384 U.S. 757, 762-765, 86 S. Ct. 1826, 16 L. Ed. 2d 908 (1966)
- State v. Schroeder, 2004 SD 21, ¶ 14, 674 N.W.2d 827, 831
- State v. Pellegrino, 1998 SD 39, ¶ 22, 577 N.W.2d 590, 599
- Sommervold v. Grevlos, 518 N.W.2d 733, 739 (S.D. 1994)
- People v. Eghan, 344 Ill. App. 3d 301, 279 Ill. Dec. 223, 799 N.E.2d 1026 (2003)