

SUPREME COURT OF SOUTH DAKOTA

State v. Fischer

2016 S.D. 1 (2016) · No. #27062 · Decided January 6, 2016

SUMMARY

The South Dakota Supreme Court affirmed Bryon James Fischer’s convictions for possession of methamphetamine, possession of two ounces or less of marijuana, and possession of drug paraphernalia. The court held that the vehicle search was justified under both the automobile exception and the search-incident-to-arrest exception, and that Fischer had not preserved his challenge to the validity of his arrest. The court also concluded that sufficient circumstantial evidence supported the finding that Fischer knowingly possessed methamphetamine.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gilbertson, Chief Justice; Zinter, Justice; Wilbur, Justice; Severson, Justice; Kern, Justice
JURISDICTION	South Dakota
DECIDED	January 6, 2016
DOCKET	#27062
DISPOSITION	affirmed
PROCEDURAL POSTURE	Fischer appealed his jury convictions for possession of methamphetamine, possession of two ounces or less of marijuana, and possession of drug paraphernalia, challenging the denial of his motion to suppress and motion for judgment of acquittal.
STANDARD OF REVIEW	A warrantless-search suppression ruling is reviewed de novo as to the legal question, with factual findings reviewed for clear error and no deference given to legal conclusions. A motion for judgment of acquittal is reviewed de novo, viewing the evidence in the light most favorable to the prosecution and asking whether any rational trier of fact could find the essential elements beyond a reasonable doubt. Unpreserved issues are reviewed for plain error only cautiously and in exceptional circumstances, and the appellant must show prejudice.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Bryon James Fischer v. State of South Dakota

TOPICS

search and seizure

fourth amendment

suppression of evidence

probable cause

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred by denying Fischer's motion to suppress evidence obtained from the search of the vehicle.
2. Whether the circuit court erred by denying Fischer's motion for judgment of acquittal because the evidence was insufficient to prove that he knowingly possessed methamphetamine.

HOLDINGS

1. Fischer did not preserve a challenge to the validity of his arrest or the subsequent search of his person because his suppression motion and supporting argument challenged only the vehicle search under *Arizona v. Gant* and *State v. Overbey*.
2. The circuit court did not plainly err by refusing to exclude evidence obtained incident to Fischer's arrest because Fischer failed to establish prejudice, and the arrest and search were independently supported by probable cause arising from the open-container offense.
3. The vehicle search was valid under both the automobile exception and the search-incident-to-arrest exception to the warrant requirement.
4. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Fischer knowingly possessed methamphetamine, so the circuit court properly denied the motion for judgment of acquittal.

KEY QUOTATIONS

“searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions.” (¶ 18)

“It is well settled that an officer having probable cause to believe that an automobile which he has stopped contains contraband or evidence of a crime may search the vehicle without a warrant under the automobile exception.” (¶ 19)

“dominion or right of control over a controlled substance . . . with knowledge of its presence and character.” (¶ 27)

FACTUAL BACKGROUND

Officer Pat Mertes stopped a vehicle in which Fischer was sitting in the driver's seat because it was parked in a no-parking zone. Mertes observed an open container of beer, learned that Fischer's driver's license was revoked, arrested him, and found a marijuana pipe containing burnt marijuana during a search of Fischer's person. A subsequent vehicle search uncovered a tin beneath the front passenger seat containing drug paraphernalia, and

testing confirmed methamphetamine residue in one of the items. The vehicle was registered to someone other than Fischer, and an unidentified woman was seated in the passenger seat.

PROCEDURAL HISTORY

After a traffic stop, police searched Fischer and the vehicle he was driving. The State charged Fischer with three drug-related offenses. The circuit court denied his motion to suppress and later denied his motion for judgment of acquittal. A jury found him guilty on all three charges, and the circuit court imposed concurrent and partially suspended sentences. Fischer appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Medicine, 2015 S.D. 45, ¶¶ 5-6, 865 N.W.2d 492, 495
- State v. Walter, 2015 S.D. 37, ¶ 6, 864 N.W.2d 779, 781-82
- State v. Dufault, 2001 S.D. 66, ¶ 7, 628 N.W.2d 755, 757
- State v. Nelson, 1998 S.D. 124, ¶¶ 7-8, 587 N.W.2d 439, 443
- State v. Henjum, 1996 S.D. 7, ¶ 14, 542 N.W.2d 760, 763
- State v. Whitfield, 2015 S.D. 17, ¶ 16, 862 N.W.2d 133, 139
- Supreme Pork, Inc. v. Master Blaster, Inc., 2009 S.D. 20, ¶ 58, 764 N.W.2d 474, 491
- Sander v. Geib, Elston, Frost Prof'l Ass'n, 506 N.W.2d 107, 113 (S.D. 1993)
- Devenpeck v. Alford, 543 U.S. 146, 152-55, 125 S. Ct. 588, 593-95, 160 L. Ed. 2d 537 (2004)
- Klingler v. United States, 409 F.2d 299, 305 (8th Cir. 1969)
- Arizona v. Gant, 556 U.S. 332, 336-38, 343-47, 129 S. Ct. 1710, 1715-21, 173 L. Ed. 2d 485 (2009)
- United States v. Ross, 456 U.S. 798, 809, 825, 102 S. Ct. 2157, 2164, 2173, 72 L. Ed. 2d 572 (1982)
- Carroll v. United States, 267 U.S. 132, 162, 45 S. Ct. 280, 288, 69 L. Ed. 543 (1925)
- State v. Peterson, 407 N.W.2d 221, 223 (S.D. 1987)
- Wong Sun v. United States, 371 U.S. 471, 479, 83 S. Ct. 407, 413, 9 L. Ed. 2d 441 (1963)
- Thornton v. United States, 541 U.S. 615, 617-18, 632, 124 S. Ct. 2127, 2129, 2137, 158 L. Ed. 2d 905 (2004)
- Riley v. California, 573 U.S. 373, 393, 134 S. Ct. 2473, 2492, 189 L. Ed. 2d 430 (2014)
- State v. Overbey, 2010 S.D. 78, ¶¶ 12, 15, 28, 790 N.W.2d 35, 40-43
- State v. LaPlante, 2002 S.D. 95, ¶¶ 21, 30, 38, 650 N.W.2d 305, 310, 312, 314
- State v. Lee, 48 S.D. 29, 35, 201 N.W. 703, 705 (1924)
- State v. Guthrie, 2001 S.D. 61, ¶ 47, 627 N.W.2d 401, 420-21
- State v. Hage, 532 N.W.2d 406, 410 (S.D. 1995)
- State v. Barry, 2004 S.D. 67, ¶¶ 9-10, 681 N.W.2d 89, 92-93
- State v. Goodroad, 442 N.W.2d 246, 251 (S.D. 1989)

- State v. Deneui, 2009 S.D. 99, ¶ 69, 775 N.W.2d 221, 248
- State v. Jahnz, 261 N.W.2d 426, 427-28 (S.D. 1978)
- State v. Mattson, 2005 S.D. 71, ¶¶ 53-56, 698 N.W.2d 538, 554-55
- State v. Edwards, 2014 S.D. 63, ¶¶ 18-19, 853 N.W.2d 246, 253-54
- State v. Reeves, 209 N.W.2d 18, 22 (Iowa 1973)
- United States v. Howard, 214 F.3d 361, 364 (2d Cir. 2000)
- United States v. Arvizu, 534 U.S. 266, 274-75, 122 S. Ct. 744, 751, 151 L. Ed. 2d 740 (2002)

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