

SUPREME COURT OF LOUISIANA

State of Louisiana v. Jeneine Parker

931 So. 2d 353 (La. 2006) · No. 2006-KK-0053 · Decided June 16, 2006

SUMMARY

The Louisiana Supreme Court reversed the trial court's suppression ruling, holding that police had probable cause to arrest the defendant for public intoxication under a New Orleans municipal ordinance. The court concluded that the subsequent search incident to the lawful arrest, which revealed crack cocaine, was not constitutionally invalid and remanded the matter for further proceedings.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	June 16, 2006
DOCKET	2006-KK-0053
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought supervisory relief from the trial court's order granting the defendant's motion to suppress evidence in a cocaine-possession prosecution.
PRECEDENTIAL VALUE	binding
PARTIES	State of Louisiana v. Jeneine Parker

TOPICS

- search and seizure
- probable cause
- suppression of evidence
- fourth amendment
- criminal procedure

PRACTICE AREAS

- criminal procedure
- constitutional law

QUESTIONS PRESENTED

- Whether the officers needed reasonable suspicion or probable cause to approach Parker, ask why she was attempting to open the door of a closed business, and request identification.

2. Whether the officers had probable cause to arrest Parker for violating the New Orleans ordinance prohibiting public intoxication to the degree that a person may endanger herself or others or property.
3. Whether the search of Parker's person following the arrest was a lawful search incident to arrest.

HOLDINGS

1. The officers did not need reasonable suspicion for an investigatory stop or probable cause for an arrest to approach Parker, inquire about her attempt to open the locked door of a closed business, and ask for identification, because the encounter involved mere communications without coercion or detention.
2. The officers had probable cause to arrest Parker for violating Section 54.405 of the New Orleans Municipal Code because she was in public, appeared manifestly under the influence of drugs not therapeutically administered, and was intoxicated to the degree that she endangered herself or property.
3. The search that uncovered the crack cocaine was lawful as a search incident to Parker's custodial arrest.

KEY QUOTATIONS

“Mere communications between officers and citizens implicates no Fourth Amendment concerns where there is no coercion or detention.” (355)

“The state met its burden of showing the officers had probable cause to arrest the defendant for violation of the ordinance.” (355)

FACTUAL BACKGROUND

New Orleans police officers on routine patrol saw Parker attempting to open the locked door of an obviously closed business during a weekday morning. When the officers approached and asked whether she worked there, Parker said no; the officers observed that she was incoherent, unsteady, and had bloodshot eyes, and she admitted that she had smoked crack cocaine. The officers arrested her for drug incapacitation and discovered crack cocaine in a cigarette pack during a search incident to arrest.

PROCEDURAL HISTORY

The State charged Parker by bill of information with possession of cocaine under La. Rev. Stat. § 40:967(C)(2). The trial court granted Parker's motion to suppress after finding no probable cause for the arrest and implicitly determining that the search was unlawful. The Louisiana Supreme Court granted the writ, reversed the suppression ruling, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded to the trial court for further proceedings.

CASES CITED

- State v. Fisher, 97-1133, pp. 4-5 (La. 9/9/98), 720 So. 2d 1179, 1183
- United States v. Watson, 953 F.2d 895, 897 n.1 (5th Cir. 1992), cert. denied, 504 U.S. 928 (1992)
- State v. Ceasar, 02-3021, p. 6 (La. 10/21/03), 859 So. 2d 639, 644
- United States v. Robinson, 414 U.S. 218, 224 (1973)
- State v. Breaux, 329 So. 2d 696, 699 (La. 1976)

OPINION

PER CURIAM.

931 So. 2d 353 (2006) STATE of Louisiana v. Jeneine PARKER. No. 2006-KK-0053. Supreme Court of Louisiana. June 16, 2006. *354 PER CURIAM. Writ granted. The judgment of the trial court, granting the defendant's motion to suppress the evidence, is reversed. Two New Orleans police officers, while on routine patrol, observed the defendant attempting to open the locked door of an obviously closed business.

The business was closed even though it was mid-morning on a weekday. The officers approached the defendant and asked if she worked there, to which she replied in the negative. The officers observed that her eyes were bloodshot and that she was incoherent and unsteady on her feet. They asked her for identification and if she was on medication. She stated that she did not have any identification and that she had smoked crack cocaine earlier.

Given the defendant's statement and her condition, the officer arrested her for drug incapacitation. As they were conducting a search incident to arrest, the officers discovered a cigarette pack containing crack cocaine.

The state filed a bill of information charging the defendant with possession of cocaine in violation of La.Rev.Stat. 40:967 C(2). In granting the defendant's motion to suppress, the trial court found there was no probable cause to arrest the defendant and impliedly found that the search was illegal.

We find the trial court erred in its determination that there was no probable cause to arrest the defendant. The officers did not need either reasonable suspicion for an investigatory stop or probable cause for an arrest to approach the defendant, inquire why she was attempting to open the locked door to a closed business, and ask for identification. *355 Mere communications between officers and citizens implicates no Fourth Amendment concerns where there is no coercion or detention.

State v. Fisher, 97-1133, pp. 4-5 (La.9/9/98), 720 So. 2d 1179, 1183, (citing United States v. Watson, 953 F.2d 895, 897, n. 1 (5th Cir.1992), cert. denied, 504 U.S. 928, 112 S. Ct. 1989, 118 L. Ed. 2d 586 (1992)). Under Section 54.405 of the New Orleans Municipal Code, it is unlawful for any person to appear in a public place manifestly under the influence of alcohol, narcotics or other

drugs, not therapeutically administered, to the degree that he may endanger himself or other persons or property.

The state met its burden of showing the officers had probable cause to arrest the defendant for violation of the ordinance. At the hearing, the officer testified that the defendant was incoherent and unsteady on her feet. Her eyes were bloodshot and in response to their question of whether she was on medication, she replied that she had smoked crack cocaine.

Given these facts, the trial judge erred in finding the police did not have probable cause to arrest the defendant for the offense of public intoxication. The officers had probable cause with respect to each element of the offense: the defendant was in public, manifestly under the influence of alcohol or drugs not therapeutically administered, to the degree that she endangered herself or property.

Probable cause to arrest exists when the facts and circumstances known to the arresting officer, and of which he has reasonable and trustworthy information, are sufficient to justify a man of ordinary caution in the belief that the accused has committed an offense. *State v. Ceasar*, 02-3021, p. 6 (La. 10/21/03), 859 So. 2d 639, 644. It is well established that a search incident to a lawful custodial arrest is a limited exception to the constitutional prohibition of warrantless searches.

United States v. Robinson, 414 U.S. 218, 224, 94 S. Ct. 467, 471, 38 L. Ed. 2d 427 (1973); *State v. Breaux*, 329 So. 2d 696, 699 (La.1976). The trial court ruling on the defendant's motion to suppress is reversed. This matter is remanded to the trial court for further proceedings. REVERSED AND REMANDED. JOHNSON, J., dissents and would deny.