

SUPREME COURT OF WISCONSIN

State v. Vorburger, 255 Wis. 2d 537

648 N.W.2d 829 (2002) · No. No. 00-0971-CR · Decided July 16, 2002

SUMMARY

The Supreme Court of Wisconsin reviewed the validity of Amerie Becker's detention during a narcotics investigation and the voluntariness of her consent to search the apartment she shared with Bradley Vorburger. The court held that the officers had reasonable suspicion for the initial stop and that Becker's continued detention while executing a search warrant was lawful. It also concluded that Becker voluntarily consented to the apartment search and reversed the court of appeals.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	David T. Prosser, J.
JURISDICTION	Wisconsin
DECIDED	July 16, 2002
DOCKET	No. 00-0971-CR
DISPOSITION	reversed
PROCEDURAL POSTURE	The State petitioned for review of a published court of appeals decision reversing Vorburger's conviction and directing suppression of evidence obtained from the apartment he shared with Amerie Becker. The Supreme Court reviewed only the validity of the apartment search and Becker's detention and consent.
STANDARD OF REVIEW	Historical or evidentiary facts are reviewed under the clearly erroneous standard; application of constitutional principles to those facts is reviewed de novo. Voluntariness of consent is reviewed by examining factual findings for clear error and applying constitutional standards de novo.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court decision; precedential.
PARTIES	Bradley J. Vorburger v. State of Wisconsin

TOPICS

- fourth amendment
- search and seizure
- probable cause
- warrant requirement
- suppression of evidence

PRACTICE AREAS

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether Becker's initial stop and detention were supported by reasonable suspicion under the Fourth Amendment.
2. Whether officers lawfully detained Becker before and during execution of a search warrant for motel-room contraband, even though she was not the registered occupant.
3. Whether Becker's continued detention after execution of the warrant escalated into an unlawful arrest.
4. Whether Becker voluntarily consented to the search of the apartment under the totality of the circumstances.

HOLDINGS

1. The officers lawfully stopped and initially detained Becker because they had reasonable suspicion that she was committing, was about to commit, or had committed a crime.
2. The officers lawfully detained Becker before and during execution of the search warrant, even though she was not the registered occupant of the motel room.
3. Becker's continued detention after execution of the warrant did not escalate into an unlawful arrest.
4. Becker voluntarily consented to the search of the apartment, and the State proved voluntariness by clear and convincing evidence.

KEY QUOTATIONS

"[F]or Fourth Amendment purposes, we hold that a warrant to search for contraband founded on probable cause implicitly carries with it the limited authority to detain the occupants of the premises while a proper search is conducted." (255 Wis. 2d 561)

"To determine whether consent was given voluntarily, a reviewing court must determine, under the totality of the circumstances, that the consent was not the result of duress or coercion." (255 Wis. 2d 576-77)

"We conclude, therefore, that the circuit court properly denied Vorburger's motion to suppress." (255 Wis. 2d 582-83)

FACTUAL BACKGROUND

Police investigating suspected drug activity at a motel observed Bradley Vorburger and Amerie Becker approach a room registered to Cory Cramer, after officers had detected marijuana and were obtaining a search warrant. Officers handcuffed and detained Becker, told her she was not under arrest, and held her while the warrant was obtained and executed. After the search revealed approximately 14 pounds of marijuana, officers questioned Becker, read her Miranda warnings, and obtained her repeated consent to search the apartment she shared with Vorburger. The apartment search revealed marijuana, cocaine, psilocin, drug paraphernalia, cash, and documents connecting the apartment to Becker and Vorburger.

PROCEDURAL HISTORY

The Dane County Circuit Court denied Vorburger's suppression motion. Vorburger pleaded no contest to possession of cocaine with intent to deliver as party to the crime and was sentenced to 30 months in prison. The court of appeals reversed, concluding that Vorburger and Becker had been unlawfully arrested and that their consents to search were invalid. The Wisconsin Supreme Court reversed the court of appeals.

DISPOSITION

reversed

REMAND INSTRUCTIONS

None stated. The court reversed the court of appeals decision and upheld the circuit court's denial of the suppression motion.

CASES CITED

- State v. Griffith, 2000 WI 72, 236 Wis. 2d 48, 613 N.W.2d 72
- State v. Martwick, 2000 WI 5, 231 Wis. 2d 801, 604 N.W.2d 552
- State v. Eason, 2001 WI 98, 245 Wis. 2d 206, 629 N.W.2d 625
- State v. Matejka, 2001 WI 5, 241 Wis. 2d 52, 621 N.W.2d 891
- State v. McGill, 2000 WI 38, 234 Wis. 2d 560, 609 N.W.2d 795
- Rawlings v. Kentucky, 448 U.S. 98 (1980)
- Michigan v. Summers, 452 U.S. 692 (1981)
- United States v. Pace, 898 F.2d 1218 (7th Cir. 1990)
- United States v. Fountain, 2 F.3d 656 (6th Cir. 1993)
- United States v. Ritchie, 35 F.3d 1477 (10th Cir. 1994)
- Illinois v. McArthur, 531 U.S. 326 (2001)
- State v. Swanson, 164 Wis. 2d 437, 475 N.W.2d 148 (1991)
- Segura v. United States, 468 U.S. 796 (1984)
- Terry v. Ohio, 392 U.S. 1 (1968)
- United States v. Sokolow, 490 U.S. 1 (1989)
- Florida v. Royer, 460 U.S. 491 (1983)
- United States v. Place, 462 U.S. 696 (1983)
- United States v. Sharpe, 470 U.S. 675 (1985)
- State v. Phillips, 218 Wis. 2d 180, 577 N.W.2d 794 (1998)
- State v. Turner, 136 Wis. 2d 333, 401 N.W.2d 827 (1987)
- Schneckloth v. Bustamonte, 412 U.S. 218 (1973)
- Ohio v. Robinette, 519 U.S. 33 (1996)
- Chimel v. California, 395 U.S. 752 (1969)

- State v. Hughes, 2000 WI 24, 233 Wis. 2d 280, 607 N.W.2d 621
- State v. Vorburger, 2001 WI App 43, 241 Wis. 2d 481, 624 N.W.2d 398

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