

SUPREME COURT OF INDIANA

Bowles v. State

891 N.E.2d 30 (Ind. 2008) · No. 49S04-0708-CR-310 · Decided June 27, 2008

SUMMARY

The Indiana Supreme Court affirmed Darius V. Bowles's convictions, holding that the law-of-the-case doctrine barred reconsideration of the trash-search issue under the later rule announced in *Litchfield v. State*. The court concluded that Bowles's pre-*Litchfield* constitutional challenge was not substantially the same claim required for retroactive application of *Litchfield*; two justices dissented.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Boehm, Justice; Shepard, C.J.; Boehm, J.; Dickson, J.; Sullivan, J.; Rucker, J.
JURISDICTION	Indiana
DECIDED	June 27, 2008
DOCKET	49S04-0708-CR-310
DISPOSITION	affirmed
PROCEDURAL POSTURE	After the trial court denied Bowles's motion to suppress evidence and certified the order for interlocutory appeal, the Court of Appeals affirmed. Following remand, the trial court again denied suppression, convicted Bowles after a bench trial, and the Court of Appeals affirmed. The Indiana Supreme Court granted transfer.
STANDARD OF REVIEW	The court applied the law-of-the-case doctrine to an issue previously resolved in the same case.
PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential.
PARTIES	Darius V. Bowles v. State of Indiana

TOPICS

- suppression of evidence
- search and seizure
- criminal procedure
- appellate procedure
- fourth amendment

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure
- evidence

QUESTIONS PRESENTED

1. Whether Bowles could obtain the benefit of the new rule announced in *Litchfield v. State* concerning warrantless trash searches when his pre-*Litchfield* motion raised a different constitutional theory.
2. Whether the prior Court of Appeals decision in Bowles's interlocutory appeal was dispositive under the law-of-the-case doctrine.

HOLDINGS

1. Bowles could not obtain the benefit of *Litchfield* because the claim raised before *Litchfield* was not substantially the same claim that would prevail under *Litchfield*.
2. The prior Court of Appeals decision resolving the validity of the search under the law existing at the time of the search was dispositive under the law-of-the-case doctrine.

KEY QUOTATIONS

“The decision of the Court of Appeals in Bowles's interlocutory appeal resolved his claim under the law as it existed at the time of the search. Under the doctrine of the law of the case, that decision is dispositive of this appeal.” (32)

FACTUAL BACKGROUND

A confidential informant told Detective Sergeant Garth Schwomeyer that the informant had purchased cocaine from Bowles at Bowles's residence, but the informant had no established history of credibility. After surveillance revealed no evidence of drug traffic, police searched Bowles's curbside trash and found marijuana seeds and stems and plastic baggies containing cocaine residue. Based on that evidence, police obtained a warrant and seized cocaine, marijuana, alprazolam, firearms, and cash from Bowles's residence.

PROCEDURAL HISTORY

Bowles moved to suppress evidence obtained from a warrantless trash search and a resulting search of his residence. The trial court denied suppression, and the Court of Appeals affirmed the interlocutory order under *Moran v. State*. After *Litchfield v. State* was decided, Bowles renewed his suppression motion, which was denied; he was convicted of several drug offenses, and the Court of Appeals affirmed by applying *Litchfield* but recognizing a good-faith exception. The Indiana Supreme Court granted transfer and vacated that decision.

DISPOSITION

affirmed

CASES CITED

- *Moran v. State*, 644 N.E.2d 536 (Ind. 1994)
- *Bowles v. State*, 820 N.E.2d 739, 743-45 (Ind. Ct. App. 2005)
- *Litchfield v. State*, 824 N.E.2d 356, 362-64 (Ind. 2005)
- *Bowles v. State*, 831 N.E.2d 741 (Ind. 2005) (table)

- Bowles v. State, 867 N.E.2d 242, 248, 252 (Ind. Ct. App. 2007)
- Bowles v. State, 878 N.E.2d 207 (Ind. 2007) (table)
- Membres v. State, 889 N.E.2d 265, 271, 274 (Ind. 2008)
- Cutter v. State, 725 N.E.2d 401, 405 (Ind. 2000)
- Smylie v. State, 823 N.E.2d 679, 688-89 (Ind. 2005)
- Ludy v. State, 784 N.E.2d 459, 462 (Ind. 2003)
- Pirnat v. State, 607 N.E.2d 973, 974 (Ind. 1993)

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