

SUPREME COURT OF SOUTH CAROLINA

State v. Robinson

410 S.C. 519 (2014) · No. Appellate Case No. 2012-212042 · Decided November 12, 2014

SUMMARY

The South Carolina Supreme Court affirmed as modified the court of appeals' decision upholding Jomar Antavis Robinson's convictions for drug, weapons, and resisting-arrest offenses. The court held that Robinson failed to establish an actual and reasonable expectation of privacy in the porch of an apartment he did not own, rent, or otherwise have a demonstrated connection to, and therefore could not challenge the alleged Fourth Amendment trespass. The court declined to decide whether the officers' conduct was independently unlawful or whether Robinson waived objection to the marijuana evidence.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Toal; Hearn; Pleicones; Beatty; Kittredge
JURISDICTION	South Carolina
DECIDED	November 12, 2014
DOCKET	Appellate Case No. 2012-212042
DISPOSITION	affirmed
PROCEDURAL POSTURE	Robinson sought review by writ of certiorari of the South Carolina Court of Appeals' decision affirming the trial court's denial of his motion to suppress evidence and affirming his convictions.
STANDARD OF REVIEW	In criminal cases, appellate courts review errors of law and are bound by the trial court's factual findings unless clearly erroneous. Admission of evidence is reviewed for abuse of discretion, which includes decisions based on an error of law or factual conclusions lacking evidentiary support.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of South Carolina; precedential.
PARTIES	Jomar Antavis Robinson v. The State of South Carolina

TOPICS

suppression of evidence

fourth amendment

search and seizure

appellate procedure

criminal procedure

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether Robinson established that the officers' warrantless entry onto the porch of Apartment 122 violated his own Fourth Amendment rights.
2. Whether a defendant alleging a trespass-based Fourth Amendment violation must demonstrate an actual and reasonable expectation of privacy in the area entered by police.

HOLDINGS

1. Even when the alleged Fourth Amendment violation is an unauthorized trespass under the property-based test recognized in *United States v. Jones* and *Florida v. Jardines*, the defendant must establish that the trespass invaded his own actual and reasonable expectation of privacy. An alleged trespass alone does not permit a defendant to vicariously assert another person's Fourth Amendment rights.
2. Robinson failed to establish an actual and reasonable expectation of privacy in the porch of Apartment 122 and therefore could not challenge the alleged unlawful entry or suppress the seized gun and drugs on that basis.

KEY QUOTATIONS

“Today we hold that, even if the ultimate Fourth Amendment violation a criminal defendant seeks to vindicate is a trespass under Jones, the defendant must demonstrate that he had an actual and reasonable expectation of privacy in the area upon which the police illegally trespassed.” (410 S.C. 519)

“In other words, establishing that an illegal trespass occurred is not enough to satisfy the Fourth Amendment.” (410 S.C. 519)

FACTUAL BACKGROUND

Police surveilled the Hall Street Apartments after anonymous complaints about drug sales and weapons. An officer observed repeated apparent hand-to-hand transactions involving men on the porch of Apartment 122. When officers approached, they smelled marijuana near Robinson and saw a pistol protruding from his jacket; Robinson backed away, a struggle followed, and he fled, abandoning the jacket. A search of the jacket revealed a pistol, marijuana, and crack cocaine.

PROCEDURAL HISTORY

The York County Circuit Court denied Robinson's motion to suppress a pistol and drugs seized after police entered the porch of an apartment, conducted a frisk, and arrested him. A jury convicted him of possession of crack cocaine with intent to distribute, possession with intent to distribute within one-half mile of a public park, unlawful carrying of a pistol, possession of marijuana, and resisting arrest, and the circuit court sentenced him to

life without parole. The Court of Appeals affirmed, and the Supreme Court of South Carolina affirmed as modified.

DISPOSITION

affirmed

CASES CITED

- State v. Robinson, 396 S.C. 577, 722 S.E.2d 820 (Ct. App. 2012)
- Terry v. Ohio, 392 U.S. 1 (1968)
- State v. Tindall, 388 S.C. 518, 520, 698 S.E.2d 203, 205 (2010)
- State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)
- State v. Wright, 391 S.C. 436, 442, 706 S.E.2d 324, 326-27 (2011)
- Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000)
- Silverman v. United States, 365 U.S. 505, 511 (1961)
- United States v. Karo, 468 U.S. 705, 713-15 (1984)
- Florida v. Jardines, 133 S. Ct. 1409, 1413-17 (2013)
- State v. Herring, 387 S.C. 201, 209, 692 S.E.2d 490, 494 (2009)
- Katz v. United States, 389 U.S. 347, 352, 357, 361 (1967)
- United States v. Jones, 132 S. Ct. 945, 949-50, 953, 960 (2012)
- California v. Ciraolo, 476 U.S. 207, 213 (1986)
- Rakas v. Illinois, 439 U.S. 128, 130 n.1, 133-44, 148-49 (1978)
- Alderman v. United States, 394 U.S. 165, 171-74 (1969)
- State v. Hiott, 276 S.C. 72, 78, 276 S.E.2d 163, 166 (1981)
- Minnesota v. Carter, 525 U.S. 83, 88-91 (1998)
- State v. McKnight, 291 S.C. 110, 115, 352 S.E.2d 471, 473 (1987)
- Rawlings v. Kentucky, 448 U.S. 98, 104-05 (1980)
- State v. Crane, 296 S.C. 336, 340-41, 372 S.E.2d 587, 589 (1988)
- United States v. Salvucci, 448 U.S. 83, 85, 91-92 (1980)
- Minnesota v. Olson, 495 U.S. 91, 93, 96-99 (1990)
- State v. Missouri, 361 S.C. 107, 110, 115, 603 S.E.2d 594, 595, 597 (2004)
- State v. Flowers, 360 S.C. 1, 6, 598 S.E.2d 725, 728 (Ct. App. 2004)
- In re Bazen, 275 S.C. 436, 437-38, 272 S.E.2d 178, 178 (1980)
- State v. Gamble, 405 S.C. 409, 416, 747 S.E.2d 784, 787 (2013)
- Florida v. Royer, 460 U.S. 491, 500 (1983)
- State v. Easterling, 257 S.C. 239, 185 S.E.2d 366 (1971)
- State v. Neeley, 271 S.C. 43, 244 S.E.2d 528 (1978)
- Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999)

