

SUPREME COURT OF WYOMING

Hixson v. State

33 P.3d 154 (Wyo. 2001) · No. No. 00-140 · Decided October 18, 2001

SUMMARY

The Wyoming Supreme Court reviewed Gregory John Hixson’s convictions for conspiracy to manufacture a controlled substance and possession of controlled substances. The court held that the search-warrant affidavit did not provide sufficient information for an independent determination of probable cause because it failed to identify the sources or foundations of its statements. The court also held that the State failed to establish the necessary facts for applying the plain view doctrine and reversed.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Voigt, Justice; Lehman, C.J.; Golden, J.; Hill, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	October 18, 2001
DOCKET	No. 00-140
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from the district court's denial of a motion to suppress evidence obtained during execution of a search warrant and an arrest warrant.
STANDARD OF REVIEW	The sufficiency of a search-warrant affidavit under the Wyoming Constitution is reviewed de novo, with deference to the issuing magistrate's probable-cause determination. Probable cause is assessed under the totality-of-the-circumstances test and from the four corners of the affidavit.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Gregory John Hixson v. The State of Wyoming

TOPICS

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

PRACTICE AREAS

criminal procedure

constitutional law

search and seizure

evidence

QUESTIONS PRESENTED

1. Whether Officer London's affidavit supplied a substantial basis for the issuing judicial officer to find probable cause to search Hixson's residence.
2. Whether evidence allegedly observed in plain view during execution of Hixson's arrest warrant was admissible despite the invalidity of the search warrant.

HOLDINGS

1. The affidavit was insufficient to establish probable cause because it did not provide enough information for the issuing judicial officer to independently assess the reliability, source, or basis of the statements supporting the warrant.
2. The State failed to establish the requirements of the plain-view exception because the suppression-hearing evidence did not show where the items were found, who found them, whether they were actually in plain view, or otherwise satisfy the doctrine's elements.
3. The State was not entitled to a remand for a new or fuller suppression hearing to present additional plain-view evidence.

KEY QUOTATIONS

“For a judge or magistrate to issue a search warrant, the affidavit of probable cause must contain sufficient information for an independent determination of the reliability of the statements made therein, which shall include sufficient identification of the source of the information.” (33 P.3d at 159; ¶ 12)

“Accordingly, the State did not meet its burden of proving the elements of the plain view exception to the warrant requirement.” (33 P.3d at 160; ¶ 17)

FACTUAL BACKGROUND

Law enforcement used two confidential informants in controlled-substance transactions involving Jason Schibig and Hixson. Officer Don London obtained a search warrant for Hixson's residence based on an affidavit describing the transactions, but the affidavit did not identify the sources or foundations for its statements. Officers executed the search warrant and an arrest warrant, and the State relied alternatively on the plain-view doctrine to justify seizure of evidence from the residence.

PROCEDURAL HISTORY

Hixson was charged in a second Information with conspiracy to manufacture a controlled substance and two counts of possession of a controlled substance, based on evidence obtained during a search of his residence and following his arrest. After being bound over to district court, he moved to suppress the evidence, arguing that the search-warrant affidavit lacked probable cause and contained unsupported or false statements. The district court denied the motion, and Hixson appealed after conviction.

DISPOSITION

reversed

CASES CITED

- Cordova v. State, 2001 WY 96, 33 P.3d 142 (Wyo. 2001)
- Vasquez v. State, 990 P.2d 476 (Wyo. 1999)
- Davis v. State, 859 P.2d 89 (Wyo. 1993)
- Hyde v. State, 769 P.2d 376 (Wyo. 1989)
- Bonsness v. State, 672 P.2d 1291 (Wyo. 1983)
- Ostrowski v. State, 665 P.2d 471 (Wyo. 1983)
- United States v. Shelton, 742 F. Supp. 1491 (D. Wyo. 1990)
- Franks v. Delaware, 438 U.S. 154 (1978)
- Hall v. State, 911 P.2d 1364 (Wyo. 1996)
- Guerra v. State, 897 P.2d 447 (Wyo. 1995)
- Southworth v. State, 913 P.2d 444 (Wyo. 1996)
- Lee v. State, 2 P.3d 517 (Wyo. 2000)
- Almada v. State, 994 P.2d 299 (Wyo. 1999)
- McCutcheon v. State, 604 P.2d 537 (Wyo. 1979)
- Croker v. State, 477 P.2d 122 (Wyo. 1970)
- Taylor v. State, 7 P.3d 15 (Wyo. 2000)
- Horton v. California, 496 U.S. 128 (1990)
- Callaway v. State, 954 P.2d 1365 (Wyo. 1998)
- Pendelton v. State, 966 P.2d 951 (Wyo. 1998)
- Jones v. State, 902 P.2d 686 (Wyo. 1995)
- McDermott v. State, 870 P.2d 339 (Wyo. 1994)
- Gehnert v. State, 956 P.2d 359 (Wyo. 1998)
- Smith v. State, 557 P.2d 130 (Wyo. 1976)