

SUPREME COURT OF NORTH DAKOTA

State v. Washington

737 N.W.2d 382 (N.D. 2007) · No. No. 20060369 · Decided August 22, 2007

SUMMARY

The Supreme Court of North Dakota affirmed an amended order deferring imposition of sentence after Johnny Washington entered a conditional guilty plea to felony burglary. The court held that officers had reasonable suspicion to approach and detain the occupants of a vehicle near a reported burglary, probable cause to open the vehicle and arrest its occupants, and a lawful basis to observe and seize evidence in plain view.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Vande Walle, Chief Justice; Carol Ronning Kapsner, Justice; Mary Muehlen Maring, Justice; Daniel J. Crothers, Justice; Dale V. Sandstrom, Justice
JURISDICTION	North Dakota
DECIDED	August 22, 2007
DOCKET	No. 20060369
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an amended order deferring imposition of sentence entered after Washington entered a conditional guilty plea to class C felony burglary; the plea reserved his right to appeal the denial of his motion to suppress.
STANDARD OF REVIEW	The court defers to the district court's factual findings and resolves conflicts in testimony in favor of affirmance. It affirms a suppression ruling if sufficient competent evidence supports the findings and the decision is not contrary to the manifest weight of the evidence; questions of law and whether factual findings meet a legal standard are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Johnny Washington v. State of North Dakota

TOPICS

suppression of evidence

fourth amendment

search and seizure

probable cause

criminal procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether officers had reasonable suspicion to approach and seize the occupants of the vehicle after observing the vehicle near the burglarized bar under suspicious circumstances.
2. Whether officers had probable cause to open the vehicle door and arrest the occupants after repeated attempts to obtain a response from a person lying inside a nonrunning vehicle in subzero weather.
3. Whether the evidence observed in plain view after the vehicle door was opened was lawfully seized and whether the district court properly denied Washington's suppression motion.

HOLDINGS

1. Under the totality of the circumstances, officers had reasonable and articulable suspicion that the occupants had violated the law and therefore lawfully approached and seized them.
2. The officers had probable cause to arrest the occupants and could use a locksmith to open the vehicle door after repeated efforts to obtain a response from a person lying inside the vehicle.
3. The gloves, hammer, and crowbar observed in plain view were lawfully seized, and the later warrant search was not rendered unlawful by the officers' initial entry into the vehicle.

KEY QUOTATIONS

“Reasonable suspicion requires more than a mere hunch.” (737 N.W.2d at 387)

“Probable cause is a fluid concept — turning on the assessment of probabilities in particular factual contexts — not readily, or even usefully, reduced to a neat set of legal rules.” (737 N.W.2d at 388)

“Under the circumstances here, the officers' use of a locksmith to open the vehicle door to effectuate the arrest of the occupants was eminently reasonable under the Fourth Amendment.” (737 N.W.2d at 389)

FACTUAL BACKGROUND

At approximately 4:18 a.m., police responded to an alarm at a Dickinson bar and observed a white vehicle abruptly stop near the bar, turn off its lights and engine, and remain occupied in near-zero-degree weather. After officers confirmed that the bar had been forcibly entered and repeatedly received no response from people inside the nonrunning vehicle, a locksmith opened the vehicle door. Officers removed and handcuffed the occupants and observed gloves, a hammer, and a crowbar in plain view. A later warrant search revealed additional incriminating evidence, and Washington was charged with burglary.

PROCEDURAL HISTORY

Washington moved to suppress evidence, arguing that officers unlawfully searched his vehicle and illegally seized him and the vehicle. After an evidentiary hearing, the district court denied the motion, finding that officers had probable cause to enter and search the vehicle under the automobile exception. Washington then entered a conditional guilty plea and appealed. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Doohen, 2006 ND 239, ¶ 8, 724 N.W.2d 158
- State v. Graf, 2006 ND 196, ¶ 7, 721 N.W.2d 381
- State v. Ebel, 2006 ND 212, ¶ 12, 723 N.W.2d 375
- State v. Woinarowicz, 2006 ND 179, ¶ 21, 720 N.W.2d 635
- State v. Tognotti, 2003 ND 99, ¶ 7, 663 N.W.2d 642
- State v. Olson, 2007 ND 40, ¶ 9, 729 N.W.2d 132
- City of Jamestown v. Jerome, 2002 ND 34, ¶ 5, 639 N.W.2d 478
- State v. Torkelsen, 2006 ND 152, ¶¶ 10, 13, 15, 718 N.W.2d 22
- Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)
- Rist v. North Dakota Department of Transportation, 2003 ND 113, ¶ 9, 665 N.W.2d 45
- Cady v. Dombrowski, 413 U.S. 433, 441, 93 S. Ct. 2523, 37 L. Ed. 2d 706 (1973)
- State v. Westmiller, 2007 ND 52, ¶¶ 9-10, 730 N.W.2d 134
- State v. Smith, 2005 ND 21, ¶ 15, 691 N.W.2d 203
- Johnson v. Sprynczynatyk, 2006 ND 137, ¶ 9, 717 N.W.2d 586
- State v. Leher, 2002 ND 171, ¶ 11, 653 N.W.2d 56
- Gabel v. North Dakota Department of Transportation, 2006 ND 178, ¶ 11, 720 N.W.2d 433
- State v. Decoteau, 2004 ND 139, ¶ 14, 681 N.W.2d 803
- State v. Linghor, 2004 ND 224, ¶¶ 8, 10, 690 N.W.2d 201
- Maryland v. Pringle, 540 U.S. 366, 124 S. Ct. 795, 157 L. Ed. 2d 769 (2003)
- State v. Overby, 1999 ND 47, ¶ 13, 590 N.W.2d 703
- Torstenson v. Moore, 1997 ND 159, ¶ 17, 567 N.W.2d 622
- State v. Elison, 135 Idaho 546, 21 P.3d 483, 486 (2001)
- Matter of Welfare of G.M., 560 N.W.2d 687, 695 (Minn. 1997)
- Lapp v. North Dakota Department of Transportation, 2001 ND 140, ¶¶ 8, 15, 632 N.W.2d 419
- State v. Boyd, 2002 ND 203, ¶ 10, 654 N.W.2d 392
- State v. Haverluk, 2000 ND 178, ¶ 20, 617 N.W.2d 652
- State v. DuPaul, 509 N.W.2d 266, 270 (N.D. 1993)
- Maryland v. Wilson, 519 U.S. 408, 410, 117 S. Ct. 882, 137 L. Ed. 2d 41 (1997)

- *Pennsylvania v. Mimms*, 434 U.S. 106, 111, 98 S. Ct. 330, 54 L. Ed. 2d 331 (1977)
- *State v. Anderson*, 2006 ND 44, ¶¶ 36-38, 710 N.W.2d 392
- *Jones v. Ahlberg*, 489 N.W.2d 576, 580 (N.D. 1992)
- *Winters v. Adams*, 254 F.3d 758, 761, 766 (8th Cir. 2001)
- *Miller v. Page*, 2005 WL 3557426, at *7 (W.D. Mo. Dec. 28, 2005)
- *Lane v. State*, 226 Md. 81, 172 A.2d 400, 405-06 (1961)
- *Qualls v. State*, 947 So. 2d 365, 372 (Miss. Ct. App. 2007)
- *Schell v. Collis*, 83 N.W.2d 422, 425 (N.D. 1957)

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