

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States v. Izeal Rideau, Jr.

949 F.2d 718 (5th Cir. 1991) · No. No. 91-4172 · Decided February 11, 1992

SUMMARY

The Fifth Circuit held that police officers were justified in briefly detaining Izeal Rideau, Jr. to check on his condition but lacked specific, individualized facts supporting a protective patdown under *Terry v. Ohio*. Because the firearm was discovered during the improper patdown and was the sole evidence supporting his conviction, the court reversed; the court later ordered rehearing en banc.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Jerry E. Smith; Goldberg; Smith; Duhe
JURISDICTION	Federal
DECIDED	February 11, 1992
DOCKET	No. 91-4172
DISPOSITION	reversed
PROCEDURAL POSTURE	Rideau appealed his conviction for being a felon in possession of a firearm after the district court denied his motion to suppress the firearm seized during an investigatory detention and protective patdown.
STANDARD OF REVIEW	The district court's factual findings on a suppression motion are reviewed for clear error, and its legal conclusions are reviewed de novo. The evidence is viewed in the light most favorable to the party prevailing below.
PRECEDENTIAL VALUE	published
PARTIES	Izeal Rideau, Jr. v. United States of America

TOPICS

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

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure
- evidence

QUESTIONS PRESENTED

1. Whether officers could briefly detain Rideau to check on his condition even without specific suspicion of criminal activity.
2. Whether the officers had specific and articulable facts supporting an individualized reasonable inference that Rideau was armed and dangerous, thereby justifying a protective patdown under *Terry v. Ohio*.
3. Whether the firearm should have been suppressed and whether reversal was required when the firearm was the sole evidence supporting the conviction.

HOLDINGS

1. The officers were justified in briefly detaining Rideau to check on his condition because his presence in the roadway and possible intoxication presented a hazard to himself and others, even though the detention was not based on suspected criminal activity.
2. The protective patdown violated the Fourth Amendment because the officers lacked specific and articulable facts supporting an individualized inference that Rideau was armed and dangerous. A high-crime area, late hour, prior experience with weapons in the area, and generalized nervousness were insufficient.
3. The firearm should have been suppressed, and the conviction was reversed for insufficient evidence because the firearm was the sole evidence admitted against Rideau.

KEY QUOTATIONS

“Rather, we merely hold that where there is no indication (other than a generalized sense that the person is nervous) that an individual possesses a weapon, a protective patdown runs afoul of the dictates of Terry and its progeny.” (¶ 22)

“The officers would have been derelict in their duties had they not stopped Rideau to check on his condition.” (¶ 9)

FACTUAL BACKGROUND

At approximately 10:30 p.m. in Beaumont, Texas, Officer Jimmy Ellison saw Rideau, who was wearing dark clothing, standing in the road and stumbling as he moved toward the side of the road. Ellison stopped Rideau to check whether he was intoxicated or needed assistance, then attempted to pat down his outer clothing based on the high-crime area, the late hour, Rideau's apparent nervousness, and Ellison's general concern for officer safety. Ellison felt a weapon, seized Rideau's arm, and recovered a loaded firearm from Rideau's pocket.

PROCEDURAL HISTORY

Rideau was charged under 18 U.S.C. § 922(g)(1). The district court denied his suppression motion and other post-trial motions, and a jury convicted him. The Fifth Circuit held that the protective patdown violated the Fourth Amendment and reversed the conviction for insufficient evidence because the firearm was the sole evidence admitted at trial. The opinion states that rehearing en banc was later granted on February 11, 1992.

DISPOSITION

reversed

CASES CITED

- Terry v. Ohio, 392 U.S. 1 (1968)
- United States v. Campbell, 942 F.2d 890 (5th Cir. 1991)
- United States v. Johnson, 932 F.2d 1068 (5th Cir. 1991), modified on other grounds, 932 F.2d 1071 (5th Cir. 1991) (per curiam)
- United States v. Wallace, 889 F.2d 580 (5th Cir. 1989), cert. denied, 498 U.S. 1030 (1990)
- Cady v. Dombrowski, 413 U.S. 433 (1973)
- Ybarra v. Illinois, 444 U.S. 85 (1979)
- Maryland v. Buie, 494 U.S. 325 (1990)
- Brown v. Texas, 443 U.S. 47 (1979)
- United States v. Garza, 921 F.2d 59 (5th Cir. 1990), cert. denied, 501 U.S. 1217 (1991)
- United States v. Landry, 903 F.2d 334 (5th Cir. 1990)
- United States v. Harvey, 897 F.2d 1300 (5th Cir. 1990), cert. denied, 498 U.S. 1015 (1990)
- United States v. Simmons, 918 F.2d 476 (5th Cir. 1990)
- United States v. Maestas, 941 F.2d 273 (5th Cir. 1991)