

SUPREME JUDICIAL COURT OF MAINE

State of Maine v. James R. Simmons; State of Maine v. Frederick A. Campbell

2016 ME 103 (2016) · No. Lin-15-369 · Decided July 12, 2016

SUMMARY

The Maine Supreme Judicial Court reviewed suppression orders concerning cellular telephone records seized under search warrants in the arson prosecutions of James R. Simmons and Frederick A. Campbell. The court held that the affidavits established probable cause to obtain historical cell site location data for Simmons's phone on June 21, 2012, but did not establish probable cause for Campbell's records or for Simmons's records relating to other information and dates. The court vacated that portion of the suppression order concerning Simmons's June 21 historical cell site data and affirmed the order in all other respects.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Hjelm, J.; Saufley, C.J.; Alexander, J.; Mead, J.; Gorman, J.; Jabar, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	July 12, 2016
DOCKET	Lin-15-369
DISPOSITION	other
PROCEDURAL POSTURE	The State appealed from an order of the Lincoln County Superior Court suppressing cellular telephone records seized under search warrants on the ground that the warrants were not supported by probable cause.
STANDARD OF REVIEW	The court directly reviewed the magistrate's probable-cause determination and asked whether the affidavit provided a substantial basis for that finding. It reviewed the affidavit within its four corners, construed the information positively, and allowed reasonable inferences supporting the magistrate's determination. Legal conclusions and warrant severability were reviewed de novo.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential.

TOPICS

search and seizure

probable cause

warrant requirement

suppression of evidence

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

search and seizure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the affidavits established probable cause to seize Frederick Campbell's cellular telephone records relating to the June 21, 2012 fire.
2. Whether the affidavits established probable cause to seize James R. Simmons's cellular telephone records relating to the June 10, 2012 fire.
3. Whether the affidavits established probable cause to seize historical cell site location data from James Simmons's cellular telephone for June 21, 2012.
4. Whether the properly supported portion of the warrants could be severed from unsupported portions so that the historical cell site location evidence would not be suppressed.

HOLDINGS

1. The affidavits did not establish probable cause to believe that Campbell was involved in the June 21 fire or that evidence of criminality would be found in his cellular telephone records.
2. The affidavits did not establish probable cause to believe that James Simmons was criminally involved in the June 10 fire or that his cellular records for that night would contain evidence of criminal activity.
3. The affidavits provided a substantial basis for finding probable cause to seize historical cell site location records associated with James Simmons's cellular telephone for June 21, 2012.
4. The properly supported authorization to seize historical cell site location data for James Simmons on June 21 could be severed from the unsupported portions of the warrants, so that the properly obtained data was not subject to suppression.

KEY QUOTATIONS

"A finding of probable cause rests on "a practical, commonsense determination whether, given all the circumstances set forth in the affidavit, there is a fair probability that contraband or evidence of a crime will be found in a particular place." (¶ 11)

"Our inquiry on appeal is limited to whether there is a substantial basis for the probable cause finding." (¶ 12)

"As one commentator has explained, "it would be harsh medicine indeed if a warrant issued on probable cause and particularly describing certain items were to be invalidated in toto merely because the affiant and magistrate erred in seeking and permitting a search for other items as well." (¶ 24)

“The evidence that the State obtained properly is therefore not subject to suppression.” (¶ 30)

FACTUAL BACKGROUND

Two structure fires occurred in Friendship in June 2012, and the State Fire Marshal’s Office determined that both were incendiary. James R. Simmons and Donald Simmons, unrelated commercial fishermen, were involved in a hostile feud involving cut lobster traps, gunfire, and a criminal-threatening arrest. A witness reported seeing James Simmons’s truck speeding away from Donald Simmons’s property approximately ninety minutes before the June 21 fire was reported, while James’s wife supplied an alibi; the affidavits contained only limited information connecting Frederick Campbell to the fire. The State sought cellular records, including historical cell site location data, to determine the defendants’ locations and identify communications or accomplice information.

PROCEDURAL HISTORY

The State obtained search warrants for cellular telephone records associated with James R. Simmons and Frederick A. Campbell in connection with two incendiary fires. After Simmons moved to suppress and Campbell joined the motion, the Superior Court suppressed the evidence in its entirety, concluding that the affidavits failed to establish probable cause. The State timely appealed with the approval of the Attorney General.

DISPOSITION

other

REMAND INSTRUCTIONS

The portion of the suppression order suppressing historical cell site location data contained in James Simmons’s cell phone records for June 21, 2012, was vacated. The suppression order was affirmed in all other respects, and the case was remanded for further proceedings.

CASES CITED

- State v. Johndro, 2013 ME 106, ¶¶ 9-10, 82 A.3d 820
- State v. Gurney, 2012 ME 14, ¶ 33, 36 A.3d 893
- State v. Diamond, 628 A.2d 1032, 1034 (Me. 1993)
- State v. Cote, 2015 ME 78, ¶ 9, 118 A.3d 805
- In re Application of the United States for Historical Cell Site Data, 724 F.3d 600, 611-15 (5th Cir. 2013)
- United States v. Graham, 846 F. Supp. 2d 384, 392 (D. Md. 2012)
- United States v. Soussi, 29 F.3d 565, 568 (10th Cir. 1994)
- United States v. Sells, 463 F.3d 1148, 1154 (10th Cir. 2006)
- United States v. Riggs, 690 F.2d 298, 300-01 (1st Cir. 1982)
- United States v. Sears, 411 F.3d 1124, 1129-30 (9th Cir. 2005)
- United States v. Spilotro, 800 F.2d 959, 967-68 (9th Cir. 1986)

- State v. Drown, 2007 ME 142, ¶ 7, 937 A.2d 157
- State v. Bailey, 2012 ME 55, ¶ 16, 41 A.3d 535
- Kyllo v. United States, 533 U.S. 27, 33-34 (2001)
- In re Application of the United States for an Order pursuant to 18 U.S.C. § 2703(d), 509 F. Supp. 2d 76, 78-79 (D. Mass. 2007)
- In re Application of the United States for an Order Authorizing the Installation and Use of a Pen Register, 402 F. Supp. 2d 597, 599 (D. Md. 2005)
- In re Application of the United States for an Order Directing a Provider of Electronic Communication Service to Disclose Records to the Government, 620 F.3d 304, 313 (3d Cir. 2010)
- United States v. Graham, No. 12-4659, No. 12-4825, 2016 U.S. App. LEXIS 9797, at *7, *13-*14 (4th Cir. May 31, 2016) (en banc)