

INDIANA SUPREME COURT

State of Indiana v. Brishen R. Vanderkolk

32 N.E.3d 775 (Ind. 2015) · No. 79S04-1411-CR-718 · Decided June 9, 2015

SUMMARY

The Indiana Supreme Court held that a probationer or community corrections participant may authorize a warrantless and suspicionless premises search through a valid, clearly expressed search condition or advance consent. Because the applicable condition authorized searches only upon probable cause, the community corrections officers' suspicionless search was unlawful under the Fourth Amendment. The court reversed and remanded with instructions to suppress all evidence seized during the search.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Justice Dickson; Chief Justice Rush; Justice David; Justice Massa; Justice Rucker
JURISDICTION	Indiana
DECIDED	June 9, 2015
DOCKET	79S04-1411-CR-718
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed the trial court's order partially granting Vanderkolk's motion to suppress. The case was transferred from the Indiana Court of Appeals to the Indiana Supreme Court.
STANDARD OF REVIEW	The legality of a warrantless search and the denial of a motion to suppress are reviewed under the Fourth Amendment and the Indiana Constitution; the court independently evaluates the reasonableness of the search based on the totality of the circumstances.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State of Indiana v. Brishen R. Vanderkolk

TOPICS

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

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether Sullivan's status as a community corrections participant, standing alone, authorized a warrantless and suspicionless search of his residence.
2. Whether Sullivan's advance consent and written community corrections search condition authorized a warrantless search without reasonable suspicion when the condition stated that officers could search "upon probable cause."
3. Whether the search could nevertheless be justified as a protective sweep or as reasonable under the Indiana Constitution.
4. Whether the *Samson v. California* rule permitting suspicionless searches under a valid search condition applies to probationers and community corrections participants.

HOLDINGS

1. A person's status as a community corrections participant or home-detention participant, standing alone, does not authorize community corrections officers to conduct a warrantless and suspicionless search of the residence.
2. A probationer or community corrections participant may authorize a warrantless premises search without reasonable suspicion through valid advance consent or a clearly expressed and unambiguous search condition, but Sullivan's condition authorized searches only upon probable cause and therefore did not authorize the search conducted here.
3. The *Samson* rule applies to Indiana probationers and community corrections participants who have consented or been clearly informed that their release conditions unambiguously authorize warrantless and suspicionless searches during the period of their probationary or community corrections status.

KEY QUOTATIONS

"We therefore hold that Indiana probationers and community corrections participants, who have consented or been clearly informed that the conditions of their probation or community corrections program unambiguously authorize warrantless and suspicionless searches, may thereafter be subject to such searches during the period of their probationary or community corrections status." (at 7)

"A probationer or community corrections participant may, pursuant to a valid search condition or advance consent, authorize a warrantless premises search without reasonable suspicion." (at 8)

FACTUAL BACKGROUND

Brishen Vanderkolk lived in the residence of Jordan Sullivan, who was participating in home detention through Tippecanoe County Community Corrections. Community corrections officers conducted a routine, warrantless compliance search of the residence without any initial suspicion of criminal activity. The search uncovered drugs

and drug paraphernalia in common areas and in both men's private bedrooms. Sullivan's written participation conditions authorized entry without prior notice to search "upon probable cause," but probable cause was absent.

PROCEDURAL HISTORY

Vanderkolk was charged with drug-related offenses after community corrections officers conducted a warrantless search of the residence where he lived. The trial court denied suppression as to evidence found in common areas but suppressed evidence found in Vanderkolk's private bedroom. The Court of Appeals affirmed, and the Indiana Supreme Court accepted transfer, reversed the partial denial of suppression, and remanded with instructions to suppress all evidence from the search.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the trial court's order denying in part Vanderkolk's motion to suppress and remand with instructions to grant the motion to suppress in its entirety.

CASES CITED

- Samson v. California, 547 U.S. 843, 846, 848-50 (2006)
- United States v. Knights, 534 U.S. 112, 119, 122 (2001)
- State v. Schlechty, 926 N.E.2d 1, 2 (Ind. 2010)
- Cox v. State, 706 N.E.2d 547, 549 & n.6 (Ind. 1999)
- United States v. Cardona, 903 F.2d 60, 63 (1st Cir. 1990)
- State v. Vanderkolk, 10 N.E.3d 585, 591 (Ind. Ct. App. 2014)