

SUPREME COURT OF NORTH DAKOTA

State v. Schneider

2014 ND 198 (2014) · No. 20140153 · Decided October 28, 2014

SUMMARY

The North Dakota Supreme Court affirmed the denial of Robert Schneider’s motion to suppress evidence after his conditional guilty plea to possession of marijuana by a driver and possession of drug paraphernalia. The Court held that a deputy’s approach to Schneider’s already parked vehicle, including the use of flashing lights, did not constitute a seizure under the Fourth Amendment because Schneider failed to establish that a reasonable person would have believed he was not free to leave. A dissenting justice would have concluded that the flashing lights constituted a seizure unsupported by reasonable suspicion.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Daniel J. Crothers; Gerald W. VandeWalle, Chief Justice; Lisa Fair McEvers; Dale V. Sandstrom; Carol Ronning Kapsner
JURISDICTION	North Dakota
DECIDED	October 28, 2014
DOCKET	20140153
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order denying a motion to suppress evidence, following a conditional guilty plea under North Dakota Rule of Criminal Procedure 11(a)(2).
STANDARD OF REVIEW	The Supreme Court defers to the district court's factual findings in suppression matters and will affirm if competent evidence supports those findings and the decision is not contrary to the manifest weight of the evidence. Questions of law are reviewed de novo. The defendant bears the initial burden of establishing a prima facie case of illegal seizure; if that burden is met, the burden of persuasion shifts to the State.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Robert Allen Schneider v. State of North Dakota

TOPICS

fourth amendment

search and seizure

suppression of evidence

criminal procedure

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the deputy's approach to Schneider's already parked vehicle, including the use of flashing lights, constituted a seizure under the Fourth Amendment or article I, section 8 of the North Dakota Constitution.
2. Whether Schneider established a prima facie case of an illegal seizure requiring suppression of the evidence obtained through the ensuing consensual searches.

HOLDINGS

1. The deputy's approach did not constitute a Fourth Amendment seizure. The encounter was a community-caretaking or consensual public encounter because Schneider was already stopped, the deputy did not block the available routes, did not order Schneider to do anything, did not demand a response, and did not otherwise restrain Schneider's liberty.
2. Schneider failed to establish a prima facie case that an illegal seizure occurred, so suppression was properly denied.

KEY QUOTATIONS

“It is not a Fourth Amendment seizure for a police officer to approach and talk with a person in a public place, including a stopped vehicle.” (¶ 7)

“Even when law enforcement officers have no basis for suspecting a particular individual, they may pose questions, ask for identification, and request consent to search . . . provided they do not induce cooperation by coercive means.” (¶ 11)

“A seizure occurs within the context of the Fourth Amendment only when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen.” (¶ 14)

“The district court did not err by denying Schneider's motion to suppress evidence because Schneider failed to establish a prima facie showing an illegal seizure occurred, and the district court's findings of fact are not contrary to the manifest weight of the evidence.” (¶ 20)

FACTUAL BACKGROUND

At approximately 11 p.m., Robert Schneider was parked on a gravel road near the Double Ditch historical site. A deputy pulled behind Schneider, activated flashing lights of an unspecified type, parked about a car length behind him, and approached with a flashlight. Schneider consented to a vehicle search and a pat search, which led to the discovery of marijuana and drug paraphernalia; Schneider also identified additional marijuana in the

vehicle. The deputy did not block the available roads, Schneider did not move his vehicle, and the record contained no evidence that Schneider believed he was not free to leave or that his consent was coerced.

PROCEDURAL HISTORY

Schneider was charged with possession of marijuana by a driver and possession of drug paraphernalia after a deputy searched his person and vehicle following an encounter beside a gravel road. The district court found the deputy was conducting a welfare check, concluded no seizure occurred, and denied Schneider's suppression motion. Schneider entered a conditional guilty plea and appealed the suppression ruling.

DISPOSITION

affirmed

CASES CITED

- State v. Genre, 2006 ND 77, ¶ 12, 712 N.W.2d 624
- City of Fargo v. Sivertson, 1997 ND 204, ¶ 6, 571 N.W.2d 137
- State v. Loh, 2000 ND 188, ¶ 4, 618 N.W.2d 477
- City of Jamestown v. Jerome, 2002 ND 34, ¶¶ 5-6, 639 N.W.2d 478
- Abernathey v. Dep't of Transp., 2009 ND 122, ¶ 8, 768 N.W.2d 485
- State v. Albaugh, 2007 ND 86, ¶ 10, 732 N.W.2d 712
- State v. Franklin, 524 N.W.2d 603, 604-05 (N.D. 1994)
- State v. Leher, 2002 ND 171, ¶ 7, 653 N.W.2d 56
- State v. Boyd, 2002 ND 203, ¶ 7, 654 N.W.2d 392
- State v. DeCoteau, 1999 ND 77, ¶ 19, 592 N.W.2d 579
- Cady v. Dombrowski, 413 U.S. 433, 441 (1973)
- Rist v. N.D. Dep't of Transp., 2003 ND 113, ¶ 9, 665 N.W.2d 45
- Florida v. Bostick, 501 U.S. 429, 434 (1991)
- United States v. Drayton, 536 U.S. 194, 201 (2002)
- United States v. Mendenhall, 446 U.S. 544, 554 (1980)
- United States v. Flores-Sandoval, 474 F.3d 1142, 1145 (8th Cir. 2007)
- United States v. Hathcock, 103 F.3d 715, 718 (8th Cir. 1997)
- State v. Langseth, 492 N.W.2d 298, 299-301 (N.D. 1992)
- State v. Halfmann, 518 N.W.2d 729, 731 (N.D. 1994)
- Richter v. N.D. Dep't of Transp., 2010 ND 150, ¶ 10, 786 N.W.2d 716

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