

SUPREME COURT OF NEW MEXICO

State v. Garcia

147 N.M. 134 (N.M. 2009) · No. No. 30,937 · Decided September 1, 2009

SUMMARY

The Supreme Court of New Mexico held that the defendant was seized under Article II, Section 10 of the New Mexico Constitution when an officer stopped near him, illuminated him, and ordered him to stop. Because the officer lacked reasonable suspicion, the resulting seizure was unreasonable, and the cocaine and marijuana were fruits of that seizure subject to suppression. The court reversed the defendant's convictions.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Serna, Justice; Edward L. Chávez, Chief Justice; Petra Jimenez Maes, Justice; Charles W. Daniels, Justice; Richard C. Bosson, Justice
JURISDICTION	New Mexico
DECIDED	September 1, 2009
DOCKET	No. 30,937
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendant appealed convictions after pleading guilty while reserving the right to appeal the denial of his motion to suppress. The Supreme Court of New Mexico granted certiorari to determine whether Defendant was seized under Article II, Section 10 of the New Mexico Constitution.
STANDARD OF REVIEW	Suppression rulings are reviewed for whether the law was correctly applied to the facts, viewing the facts in the manner most favorable to the prevailing party. Factual determinations are reviewed for substantial evidence; application of law to facts and reasonable-suspicion determinations are reviewed de novo.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of New Mexico
PARTIES	Joshua Garcia v. State of New Mexico

TOPICS

search and seizure

fourth amendment

suppression of evidence

criminal procedure

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

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QUESTIONS PRESENTED

1. Whether Defendant preserved his claim that the seizure violated Article II, Section 10 of the New Mexico Constitution.
2. Whether a seizure under Article II, Section 10 occurs when, considering the circumstances, a reasonable person would not feel free to leave, notwithstanding the suspect's failure to submit to an officer's assertion of authority.
3. Whether the officer had reasonable suspicion to seize Defendant when he stopped his patrol car near Defendant, shone a spotlight on him, and ordered him to stop.
4. Whether the cocaine and marijuana were fruits of the unlawful seizure and therefore subject to suppression.

HOLDINGS

1. Defendant's Article II, Section 10 claim was properly before the Supreme Court because he invoked the state constitutional protection and provided the factual basis for the suppression issue; he was not required to anticipate the Court of Appeals' alternative seizure analysis.
2. Under Article II, Section 10 of the New Mexico Constitution, a person is seized when, in view of all the circumstances, a reasonable person would not feel free to leave. New Mexico therefore rejects the requirement under *California v. Hodari D.* that a suspect submit to an assertion of police authority before a seizure occurs.
3. Defendant was seized under Article II, Section 10 when the officer stopped his marked patrol car near Defendant, shone a spotlight on him, and told, ordered, or yelled at him to stop.
4. The officer lacked reasonable suspicion to seize Defendant at the inception of the encounter.
5. The cocaine and marijuana were fruits of the unlawful seizure and must be suppressed under Article II, Section 10.

KEY QUOTATIONS

"After applying our interstitial analysis of the federal constitution and concluding that Defendant may not be protected under the Fourth Amendment, we hold that the standard for a seizure under Article II, Section 10 is whether a reasonable person would feel free to leave." (1035)

"We therefore reject Hodari D. and instead maintain Mendenhall's free-to-leave test as the proper measure of a seizure under Article II, Section 10." (1042)

"Mere speculation that Joshua Garcia may have committed an unspecified crime does not satisfy the constitutional requirement of reasonable suspicion." (1044)

“The connection between Defendant and any crime that may have been in progress was too attenuated to constitute reasonable suspicion.” (1044)

FACTUAL BACKGROUND

An officer responding to a report of a possible domestic disturbance saw Joshua Garcia walking near the reported address. The officer had no description of the person sought, no prior contact with Garcia, and no information establishing that Garcia was the person involved in the reported disturbance. The officer stopped his marked patrol car near Garcia, illuminated him with a spotlight, repeatedly ordered him to stop, pepper-sprayed him, and ultimately tackled and handcuffed him. Crack cocaine fell during the encounter, and marijuana was found during a search incident to arrest.

PROCEDURAL HISTORY

The district court denied Defendant's motion to suppress, apparently finding that he had been seized and that reasonable suspicion supported the seizure. Defendant pleaded guilty to possession of a controlled substance and resisting, evading, or obstructing an officer, reserving his suppression challenge. The Court of Appeals affirmed on the alternative ground that Defendant had not been seized under the Fourth Amendment and declined to reach his state constitutional claim. The Supreme Court reversed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The opinion directs that the evidence obtained from the unlawful seizure be suppressed. No separate remand instruction is stated.

CASES CITED

- State v. Jason L., 2000-NMSC-018, 129 N.M. 119, 2 P.3d 856
- State v. Nieto, 2000-NMSC-031, 129 N.M. 688, 12 P.3d 442
- State v. Harbison, 2007-NMSC-016, 141 N.M. 392, 156 P.3d 30
- State v. Gomez, 1997-NMSC-006, 122 N.M. 777, 932 P.2d 1
- State v. Granville, 2006-NMCA-098, 140 N.M. 345, 142 P.3d 933
- State v. Paul T., 1999-NMSC-037, 128 N.M. 360, 993 P.2d 74
- Wong Sun v. United States, 371 U.S. 471 (1963)
- California v. Hodari D., 499 U.S. 621 (1991)
- Terry v. Ohio, 392 U.S. 1 (1968)
- United States v. Mendenhall, 446 U.S. 544 (1980)
- Michigan v. Chesternut, 486 U.S. 567 (1988)
- State v. Cordova, 109 N.M. 211, 784 P.2d 30 (1989)

- State v. Gutierrez, 116 N.M. 431, 863 P.2d 1052 (1993)
- Campos v. State, 117 N.M. 155, 870 P.2d 117 (1994)
- Brown v. Illinois, 422 U.S. 590 (1975)
- United States v. Wilson, 953 F.2d 116 (4th Cir. 1991)
- United States v. Newman, 490 F.2d 993 (10th Cir. 1974)
- State v. Ingram, 1998-NMCA-177, 126 N.M. 426, 970 P.2d 1151
- State v. Affsprung, 2004-NMCA-038, 135 N.M. 306, 87 P.3d 1088
- Florida v. Bostick, 501 U.S. 429 (1991)
- State v. Lopez, 109 N.M. 169, 783 P.2d 479 (Ct. App. 1989)
- State v. Ochoa, 2009-NMCA-002, 146 N.M. 32, 206 P.3d 143
- Olmstead v. United States, 277 U.S. 438 (1928)
- Katz v. United States, 389 U.S. 347 (1967)
- Berger v. New York, 388 U.S. 41 (1967)
- State v. Javier M., 2001-NMSC-030, 131 N.M. 1, 33 P.3d 1