

MONTANA SUPREME COURT

State v. Neiss

443 P.3d 435 (Mont. 2019) · Decided June 4, 2019

SUMMARY

The Montana Supreme Court affirmed Patrick Neiss’s convictions for deliberate homicide and evidence tampering. The court addressed the execution of a search warrant without explicit no-knock authorization, the delayed forensic search of computers seized under an earlier warrant, and a jury instruction concerning competing interpretations of circumstantial evidence. The court reconsidered and overruled Montana’s requirement that officers obtain advance judicial authorization for a no-knock entry based on known exigent circumstances.

CASE DETAILS

COURT	Montana Supreme Court
WRITING FOR THE COURT	Justice Laurie McKinnon; Mike McGrath, Chief Justice; James Jeremiah Shea, Justice; Beth Baker, Justice; Jim Rice, Justice; Ingrid Gustafson, Justice
JURISDICTION	Montana
DECIDED	June 4, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Neiss appealed his Yellowstone County convictions for deliberate homicide and evidence tampering, challenging the denial of motions to suppress evidence and the giving of a circumstantial-evidence jury instruction.
STANDARD OF REVIEW	Suppression rulings are reviewed for clearly erroneous factual findings and correctness of the district court's legal interpretation and application. The sufficiency and particularity of a search warrant are reviewed de novo. Jury-instruction decisions are reviewed for abuse of discretion, considering the instructions as a whole and reversing only for prejudicial effect on substantial rights.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Patrick Neiss v. State of Montana

TOPICS

criminal procedure

search and seizure

suppression of evidence

warrant requirement

jury instructions

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether officers violated Montana's constitutional knock-and-announce and privacy protections by executing a search warrant through a no-knock entry without judicial preauthorization.
2. Whether the August 2015 warrant constitutionally authorized a forensic search of computers seized under the March 2013 warrant and whether the delay between seizure and search was unreasonable.
3. Whether the district court abused its discretion by instructing the jury that, when circumstantial evidence supports two interpretations, the jury determines which interpretation is most reasonable.

HOLDINGS

1. Montana law does not require officers to obtain advance judicial authorization for a no-knock entry. The Anyan rule requiring such preauthorization is overruled to that extent.
2. Officers may execute a no-knock entry when they have a reasonable suspicion of exigent circumstances, and the officers here had such a reasonable suspicion. The execution of the March 2013 warrant was reasonable and did not violate Neiss's rights under Article II, Sections 10 and 11, of the Montana Constitution.
3. Officers may seize an electronic device under a warrant when the type of evidence sought could reasonably be found on the device. When officers lawfully possess property, do not search it, and later obtain a warrant specifically authorizing a search of its contents, suppression is warranted only if the later search warrant is constitutionally infirm. The delay here did not render the search unreasonable, and the August 2015 warrant was supported by probable cause.
4. The district court did not abuse its discretion by instructing the jury that, when circumstantial evidence is susceptible to interpretations supporting guilt and innocence, the jury determines which is most reasonable. Read as a whole, the instructions fully and fairly stated the State's burden to prove guilt beyond a reasonable doubt and preserved the presumption of innocence.

KEY QUOTATIONS

"We overrule Anyan to the extent it requires prior judicial approval for no-knock entries. Judges no longer have a role in determining whether officers may execute a warrant via a no-knock entry. Instead, officers serving a warrant may perform a no-knock entry if they have a reasonable suspicion of exigent circumstances." (443 P.3d at 449-50; ¶ 37)

"We have little difficulty concluding there were sufficient facts, under the totality of the circumstances, there was a fair probability Neiss's computers could contain information about silencers or firearms-related inquiries or journals or logs of Neiss's history with Greene." (443 P.3d at 455; ¶ 60)

“The knock-and-announce rule remains a fundamental component of the reasonableness clause of Article II, Section 11, and the right of privacy under Article II, Section 10, of the Montana Constitution.” (443 P.3d at 456; ¶ 69)

“We hold officers may seize an electronic device pursuant to a warrant where the type of evidence the officers are looking for could reasonably be found on the device.” (443 P.3d at 456; ¶ 70)

FACTUAL BACKGROUND

Patrick Neiss became increasingly hostile toward his neighbor Frank Greene over Neiss's belief that Greene had stolen a Camaro motor. Greene was found shot and killed in his shop, and investigators found shell casings and shoeprints leading toward Neiss's property, along with other evidence connecting Neiss to the homicide. Officers seized three computers under a March 2013 warrant and later obtained an August 2015 warrant to search their contents. The computer search revealed internet searches concerning firearm suppressors.

PROCEDURAL HISTORY

A jury in the Thirteenth Judicial District Court, Yellowstone County, convicted Neiss of deliberate homicide and evidence tampering. The District Court denied Neiss's motions to suppress evidence from the March 2013 residential search and the August 2015 forensic computer search, and it gave the challenged circumstantial-evidence instruction. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Kenfield, 2009 MT 242, ¶ 15, 351 Mont. 409, 213 P.3d 461
- State v. Seader, 1999 MT 290, ¶¶ 4, 13, 297 Mont. 60, 990 P.2d 180
- State v. Sanchez, 2017 MT 192, ¶¶ 7, 16-19, 388 Mont. 262, 399 P.3d 886
- State v. Kaarma, 2017 MT 24, ¶ 7, 386 Mont. 243, 390 P.3d 609
- State v. Anyan, 2004 MT 395, ¶¶ 20, 32-34, 61-64, 325 Mont. 245, 104 P.3d 511
- State v. Ochadleus, 2005 MT 88, ¶¶ 47-56, 326 Mont. 441, 110 P.3d 448
- State ex rel. Townsend v. District Court, 168 Mont. 357, 360, 543 P.2d 193, 195 (1975)
- State v. Wilson, 266 Mont. 146, 149, 879 P.2d 683, 684 (1994)
- Wilson v. Arkansas, 514 U.S. 927, 934 (1995)
- United States v. Banks, 540 U.S. 31, 35-40 (2003)
- Dalia v. United States, 441 U.S. 238, 257 n.19 (1979)
- Richards v. Wisconsin, 520 U.S. 385, 394-96 (1997)
- Hudson v. Michigan, 547 U.S. 586, 593-96 (2006)
- State v. Ellis, 2009 MT 192, ¶ 24, 351 Mont. 95, 210 P.3d 144
- United States v. Ankeny, 502 F.3d 829, 835 (9th Cir. 2007)

- United States v. Boulanger, 444 F.3d 76, 83 (1st Cir. 2006)
- State v. Lacey, 2009 MT 62, 349 Mont. 371, 204 P.3d 1192
- State v. Kuneff, 1998 MT 287, ¶ 26, 291 Mont. 474, 970 P.2d 556
- State v. Clausell, 2001 MT 62, ¶ 25, 305 Mont. 1, 22 P.3d 1111
- United States v. Mitchell, 565 F.3d 1347, 1349-52 (11th Cir. 2009)
- Segura v. United States, 468 U.S. 796, 812 (1984)
- Maryland v. Garrison, 480 U.S. 79, 84 (1987)
- United States v. Ross, 456 U.S. 798, 821, 824 (1982)
- State v. Quigg, 155 Mont. 119, 132, 467 P.2d 692, 699 (1970)
- United States v. Towne, 997 F.2d 537, 544 (9th Cir. 1993)
- United States v. Upham, 168 F.3d 532, 535-36 (1st Cir. 1999)
- United States v. Hargus, 128 F.3d 1358, 1363 (10th Cir. 1997)
- State v. Iverson, 2018 MT 27, ¶¶ 10, 19, 390 Mont. 260, 411 P.3d 1284

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