

SUPREME COURT OF MISSOURI

State of Missouri v. Elton J. Norfolk

366 S.W.3d 528 (Mo. banc 2012) · No. SC 92252 · Decided June 12, 2012

SUMMARY

The Supreme Court of Missouri affirmed Elton J. Norfolk's convictions for unlawfully carrying a concealed weapon and possessing marijuana. The court held that the police officer had reasonable suspicion to conduct a Terry stop and frisk based on Norfolk's conduct, the location's recent armed robberies, and the officer's experience. The court concluded that the evidence was lawfully seized and properly admitted.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Zel M. Fischer; William Ray Price Jr.; Richard B. Teitelman; Patricia Breckenridge; Mary R. Russell; Laura Denvir Stith; George W. Draper III; Lisa White Hardwick, Special Judge
JURISDICTION	Missouri
DECIDED	June 12, 2012
DOCKET	SC 92252
DISPOSITION	affirmed
PROCEDURAL POSTURE	Norfolk appealed from a circuit court judgment entered after a bench trial, challenging the denial of his motion to suppress evidence and the admission of evidence seized during a Terry stop and frisk.
STANDARD OF REVIEW	The suppression ruling must be supported by substantial evidence. Facts and reasonable inferences are viewed favorably to the trial court's ruling, with contrary evidence and inferences disregarded. The Supreme Court defers to the trial court's factual and credibility findings but reviews questions of law, including whether established facts amount to reasonable suspicion, de novo.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Missouri; precedential.
PARTIES	Elton J. Norfolk v. State of Missouri

TOPICS

fourth amendment

search and seizure

criminal procedure

suppression of evidence

exclusionary rule

PRACTICE AREAS

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether Officer Reynolds had reasonable suspicion, based on specific and articulable facts, to conduct a Terry stop and frisk of Norfolk for weapons.
2. Whether the evidence seized during the stop and frisk was inadmissible under the Fourth Amendment and the fruit-of-the-poisonous-tree doctrine.
3. Whether, without the challenged evidence, sufficient evidence supported Norfolk's convictions.

HOLDINGS

1. The officer had reasonable suspicion that criminal activity was afoot and that Norfolk was unlawfully carrying a concealed weapon, so the Terry stop and frisk did not violate the Fourth Amendment.
2. Because the Terry stop and frisk was lawful, the gun and marijuana seized during the search incident to arrest were properly admitted, and the fruit-of-the-poisonous-tree doctrine did not require their exclusion.

KEY QUOTATIONS

“Officer Reynolds articulated a reasonable suspicion that criminal activity was afoot when she performed the Terry Stop and Frisk of Norfolk.” (at 534)

“Based on the totality of these circumstances, reviewed in the light most favorable to the circuit court's ruling, this Court determines there was sufficient evidence to support the finding of the circuit court.” (at 534)

FACTUAL BACKGROUND

Officer Reynolds was patrolling an area of St. Louis where several recent armed robberies had occurred when she saw Norfolk standing alone on a corner. After making eye contact with Norfolk, she observed him reach toward the back of his waistband in a manner that, based on her experience, suggested he was checking a concealed weapon. Reynolds followed Norfolk into a convenience store, directed him outside, and conducted a weapons check; when his shirt lifted and revealed a gun, she arrested him and recovered the gun and marijuana during a search incident to arrest. Norfolk admitted possessing both items.

PROCEDURAL HISTORY

The circuit court denied Norfolk's motion to suppress, conducted a bench trial after Norfolk waived a jury, and found him guilty of unlawfully carrying a concealed weapon and possessing marijuana. The court sentenced him to concurrent terms of imprisonment, suspended execution of the sentences, and placed him on probation; Norfolk was acquitted of assaulting a law enforcement officer. The Supreme Court of Missouri affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Grayson, 336 S.W.3d 138, 146 (Mo. banc 2011)
- Mapp v. Ohio, 367 U.S. 643, 655 (1961)
- State v. Miller, 894 S.W.2d 649, 654 (Mo. banc 1995)
- State v. Rousan, 961 S.W.2d 831, 845 (Mo. banc 1998)
- State v. Galazin, 58 S.W.3d 500, 507 (Mo. banc 2001)
- State v. Kinkead, 983 S.W.2d 518, 519 (Mo. banc 1998)
- State v. Pike, 162 S.W.3d 464, 472 (Mo. banc 2005)
- State v. Gaw, 285 S.W.3d 318, 319-20 (Mo. banc 2009)
- Beck v. Ohio, 379 U.S. 89, 91 (1964)
- Terry v. Ohio, 392 U.S. 1, 16, 19 n.16, 20-21 (1968)
- State v. Sund, 215 S.W.3d 719, 723 (Mo. banc 2007)
- State v. Berry, 54 S.W.3d 668, 673 (Mo. App. 2001)
- State v. Johnson, 316 S.W.3d 390, 396 (Mo. App. 2010)
- State v. Hawkins, 137 S.W.3d 549, 558-59 (Mo. App. 2004)
- State v. Goff, 129 S.W.3d 857, 862 (Mo. banc 2004)
- United States v. Arvizu, 534 U.S. 266, 273 (2002)

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