

MICHIGAN SUPREME COURT

People of the State of Michigan v. Yorel Rendell-Sivad Foster

928 N.W.2d 203 (Mich. 2019) · No. SC: 158673 · Decided June 7, 2019

SUMMARY

The Michigan Supreme Court denied the prosecution’s application for leave to appeal in a case involving suppression of a firearm discovered during a police encounter. Justice Markman dissented, concluding that the initial approach was consensual and that the officer had reasonable suspicion to conduct a Terry stop and frisk; Justice Zahra would have remanded for consideration as on leave granted.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Bridget M. McCormack, Chief Justice; David F. Viviano, Chief Justice Pro Tem; Stephen J. Markman; Brian K. Zahra; Richard H. Bernstein; Elizabeth T. Clement; Megan K. Cavanagh
JURISDICTION	Michigan
DECIDED	June 7, 2019
DOCKET	SC: 158673
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The Michigan Supreme Court denied the prosecutor's application for leave to appeal the Court of Appeals' order denying leave to appeal from the circuit court's affirmance of the district court's order suppressing a firearm and dismissing the criminal charges.
PRECEDENTIAL VALUE	Published order denying leave to appeal; no merits holding on the suppression issue
PARTIES	People of the State of Michigan v. Yorel Rendell-Sivad Foster

TOPICS

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

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Michigan Supreme Court should review the lower courts' determination that police unlawfully seized defendant and that the firearm should be suppressed.
2. Whether, under the circumstances described by the dissent, the officer's approach and questioning constituted a seizure and whether the subsequent stop and frisk was supported by reasonable suspicion.

HOLDINGS

1. The Michigan Supreme Court denied the application for leave to appeal because it was not persuaded that the question presented should be reviewed.

KEY QUOTATIONS

“On order of the Court, the application for leave to appeal the October 4, 2018 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.”

FACTUAL BACKGROUND

Police approached defendant while he was walking in a public place and asked whether he possessed a weapon. According to the dissent, the officer observed a bulge in defendant's pocket; defendant became nervous, grabbed the bulging object, and turned away from the officer. The officer then ordered defendant to raise his hands, saw a handgun in defendant's jacket, and determined that defendant lacked a concealed-weapons permit.

PROCEDURAL HISTORY

Defendant was charged with carrying a concealed weapon, felon in possession of a firearm, and felony-firearm. The district court dismissed the case after suppressing the firearm on constitutional grounds, and the circuit court affirmed. The Court of Appeals denied leave to appeal, after which the prosecutor sought leave in the Michigan Supreme Court. The Supreme Court denied the application; Justice Markman dissented, and Justice Zahra would have remanded to the Court of Appeals for consideration as on leave granted.

DISPOSITION

writ_denied

CASES CITED

- People v. Shabaz, 424 Mich. 42, 56 (1985)
- United States v. Drayton, 536 U.S. 194, 200 (2002)
- People v. Champion, 452 Mich. 92, 98 (1996)
- People v. Anthony, ___ Mich. App. ___ (2019) (Docket No. 337793)
- Terry v. Ohio, 392 U.S. 1 (1968)

