

SUPREME COURT OF WYOMING

Miller v. State

217 P.3d 793 (Wyo. 2009) · No. Nos. S-08-0190, S-08-0191 · Decided October 13, 2009

SUMMARY

The Supreme Court of Wyoming affirmed Jason Miller's convictions for controlled-substance offenses in two consolidated cases. The court upheld the denial of his motions to suppress, concluding that exigent circumstances justified securing his residence and that he lacked a reasonable expectation of privacy in his fiancée's vehicle. The court also held that Miller waived or failed to preserve his speedy-trial claims.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Burke, Justice; Voigt, C.J.; Golden, J.; Hill, J.; Kite, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	October 13, 2009
DOCKET	Nos. S-08-0190, S-08-0191
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeal from the denial of motions to suppress in two criminal cases. In docket no. 6171, Miller was convicted by a jury of three controlled-substance offenses. In docket no. 6192, he entered a conditional nolo contendere plea reserving review of the suppression ruling.
STANDARD OF REVIEW	Suppression rulings are reviewed de novo, with deference to the district court's factual findings unless clearly erroneous. Unpreserved claims are reviewed for plain error. Constitutional speedy-trial questions are reviewed de novo, while underlying factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jason Eugene Miller v. State of Wyoming

TOPICS

- suppression of evidence
- search and seizure
- fourth amendment
- speedy trial
- appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether the warrantless protective sweep of Miller's residence violated the Fourth Amendment.
2. Whether Miller's detention during the protective sweep was unlawful and required suppression of the evidence obtained under the later search warrant.
3. Whether Miller had a reasonable expectation of privacy, or standing, to challenge the search of his fiancée's vehicle.
4. Whether Miller's statutory or constitutional right to a speedy trial was violated in either criminal case.

HOLDINGS

1. The protective sweep did not violate the Fourth Amendment because officers had probable cause and exigent circumstances made it impracticable to obtain a warrant before securing the residence against possible destruction of evidence.
2. Miller failed to establish the factual nexus necessary to suppress evidence based on his allegedly unlawful detention.
3. Miller lacked a reasonable expectation of privacy in the vehicle and therefore lacked standing to challenge its search.
4. Miller's statutory and constitutional speedy-trial rights were not violated. His conditional plea waived the speedy-trial claim in docket no. 6192, and the Barker factors favored the State in docket no. 6171.

KEY QUOTATIONS

"The presence of evidence that is easily destroyed does not, by itself, create an exigency justifying a warrantless search." (217 P.3d at 800)

"If a non-owner is not using the vehicle at the time of the search, he does not have a reasonable expectation of privacy." (217 P.3d at 803)

"In balancing the four factors, we must conclude that Mr. Miller's constitutional right to a speedy trial in docket no. 6171 was not violated." (217 P.3d at 806)

FACTUAL BACKGROUND

Law-enforcement officers obtained information from Randy Lowrey that Miller was supplying controlled substances and had drugs in his nearby residence. Officers detained Miller, briefly swept his home to ensure that no one remained who could destroy evidence or threaten officer safety, and then obtained a search warrant; the warrant search produced marijuana, methamphetamine, psilocybin mushrooms, and paraphernalia. In a second case, officers searched a vehicle associated with Miller's fiancée after her mother consented and a drug-detection dog alerted, but Miller was not present during the search. The proceedings were substantially delayed by multiple changes in defense counsel, a competency evaluation, continuances, and Miller's speedy-trial waivers.

PROCEDURAL HISTORY

The district court denied Miller's motions to suppress evidence in both cases. Miller appealed the jury convictions in docket no. 6171 and appealed the suppression ruling after entering a conditional nolo contendere plea in docket no. 6192. The Wyoming Supreme Court consolidated the appeals and affirmed, rejecting the Fourth Amendment and speedy-trial claims.

DISPOSITION

affirmed

CASES CITED

- Gompf v. State, 2005 WY 112, ¶ 14, 120 P.3d 980, 984-85 (Wyo. 2005)
- Strange v. State, 2008 WY 132, ¶ 4, 195 P.3d 1041, 1043 (Wyo. 2008)
- Vassar v. State, 2004 WY 125, ¶ 19, 99 P.3d 987, 995 (Wyo. 2004)
- Pena v. State, 2004 WY 115, ¶ 29, 98 P.3d 857, 870 (Wyo. 2004)
- Jones v. State, 902 P.2d 686, 691 (Wyo. 1995)
- Rideout v. State, 2005 WY 141, 122 P.3d 201 (Wyo. 2005)
- Holzheuser v. State, 2007 WY 160, ¶¶ 8, 10, 169 P.3d 68, 74-76 (Wyo. 2007)
- Schirber v. State, 2006 WY 121, ¶ 8, 142 P.3d 1169, 1173 (Wyo. 2006)
- Bonsness v. State, 672 P.2d 1291, 1293 (Wyo. 1983)
- United States v. Jarvi, 537 F.3d 1256, 1260 (10th Cir. 2008)
- United States v. DeLuca, 269 F.3d 1128, 1132 (10th Cir. 2001)
- Andrews v. State, 2002 WY 28, ¶ 20, 40 P.3d 708, 712-13 (Wyo. 2002)
- Yoeuth v. State, 2009 WY 61, ¶ 34, 206 P.3d 1278, 1286 (Wyo. 2009)
- Flood v. State, 2007 WY 167, ¶ 13, 169 P.3d 538, 543 (Wyo. 2007)
- Yoeuth v. State, 2009 WY 61, ¶ 39, 206 P.3d 1278, 1288 (Wyo. 2009)
- Parkhurst v. State, 628 P.2d 1369, 1374 (Wyo. 1981)
- Dettloff v. State, 2007 WY 29, ¶ 16, 152 P.3d 376, 382 (Wyo. 2007)
- Putnam v. State, 995 P.2d 632, 636 (Wyo. 2000)
- United States v. Soto, 988 F.2d 1548, 1550 (10th Cir. 1993)
- United States v. Rubio-Rivera, 917 F.2d 1271, 1275 (10th Cir. 1990)
- State v. Morrill, 197 Conn. 507, 498 A.2d 76, 96 (1985)
- Tompkins v. State, 705 P.2d 836, 843 (Wyo. 1985)
- Neal v. Acevedo, 114 F.3d 803, 807 (8th Cir. 1997)
- Cooks v. State, 699 P.2d 653, 658 (Okla. Crim. App. 1985)
- Anderson v. State, 992 P.2d 409, 417 (Okla. Crim. App. 1999)
- United States v. Smith, 340 F. Supp. 1023, 1030 (D. Conn. 1972)
- Yung v. State, 906 P.2d 1028, 1032 (Wyo. 1995)

- *Sisneros v. State*, 2005 WY 139, ¶ 16, 121 P.3d 790, 796-97 (Wyo. 2005)
- *Humphrey v. State*, 2008 WY 67, ¶ 18, 185 P.3d 1236, 1243 (Wyo. 2008)
- *Ochoa v. State*, 848 P.2d 1359, 1361-62 (Wyo. 1993)
- *Cohee v. State*, 2005 WY 50, ¶ 13, 110 P.3d 267, 272 (Wyo. 2005)
- *Davila v. State*, 831 P.2d 204, 206 (Wyo. 1992)
- *Morgan v. State*, 2004 WY 95, ¶¶ 23-24, 95 P.3d 802, 808-09 (Wyo. 2004)
- *Bailey v. State*, 12 P.3d 173, 177 (Wyo. 2000)
- *United States v. Williams*, 511 F.3d 1044, 1054-55 (10th Cir. 2007)
- *Zedner v. United States*, 547 U.S. 489 (2006)
- *State v. Rose*, 348 Mont. 291, 202 P.3d 749 (2009)
- *Barker v. Wingo*, 407 U.S. 514 (1972)
- *Harvey v. State*, 774 P.2d 87, 92 (Wyo. 1989)
- *Berry v. State*, 2004 WY 81, ¶¶ 31, 35, 93 P.3d 222, 231-32 (Wyo. 2004)
- *Rodiack v. State*, 2002 WY 137, ¶ 11, 55 P.3d 1, 3 (Wyo. 2002)
- *Campbell v. State*, 999 P.2d 649, 655-56 (Wyo. 2000)
- *Strandlien v. State*, 2007 WY 66, ¶¶ 8, 12, 16, 156 P.3d 986, 990-92 (Wyo. 2007)
- *Wehr v. State*, 841 P.2d 104, 112-13 (Wyo. 1992)
- *Potter v. State*, 2007 WY 83, ¶¶ 30, 37, 158 P.3d 656, 664-65 (Wyo. 2007)