

NORTH DAKOTA SUPREME COURT

State v. Sommer

800 N.W.2d 853 (N.D. 2011) · Decided August 11, 2011

SUMMARY

Adam Timothy Sommer appealed from a criminal judgment entered after his conditional guilty pleas to three drug offenses. The North Dakota Supreme Court held that the automobile exception permitted the warrantless search of Sommer's vehicle because police had probable cause, and affirmed the judgment.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Chief Justice Gerald W. Vande Walle; Gerald W. Vande Walle; Carol Ronning Kapsner; Daniel J. Crothers; Dale V. Sandstrom; Mary Muehlen Maring
JURISDICTION	North Dakota
DECIDED	August 11, 2011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sommer appealed a criminal judgment entered after he entered conditional guilty pleas to three drug offenses, preserving his challenge to the denial of his motion to suppress evidence obtained from a warrantless search of his vehicle.
STANDARD OF REVIEW	The court reviews a suppression ruling for sufficient competent evidence fairly capable of supporting the trial court's findings and for whether the decision is contrary to the manifest weight of the evidence. Whether the factual findings meet a legal standard is a fully reviewable question of law.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Adam Timothy Sommer v. State of North Dakota

TOPICS

search and seizure

warrant requirement

probable cause

fourth amendment

suppression of evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the automobile exception to the warrant requirement required more than the vehicle's inherent mobility, including a case-specific likelihood that the vehicle could actually be moved or its contents disposed of.
2. Whether the warrantless search of Sommer's vehicle was valid under the automobile exception where probable cause existed but Sommer was in jail and the vehicle had been secured by police.

HOLDINGS

1. The automobile exception does not require exigent circumstances beyond the vehicle's inherent mobility and probable cause, and it does not require an inquiry into the likelihood that the particular vehicle would actually be driven away or its contents tampered with before police could obtain a warrant.
2. The warrantless search was valid because probable cause supported it, and probable cause was the dispositive requirement for application of the automobile exception. Sommer conceded that probable cause supported the search.

KEY QUOTATIONS

“The relevant inquiry into mobility relates to the bases of the automobile exception:” (800 N.W.2d at 856)

“The dispositive question concerning application of the automobile exception is whether probable cause supported the search.” (800 N.W.2d at 857)

FACTUAL BACKGROUND

An informant told Fargo police that Sommer was transporting marijuana and possibly heroin and described his business, telephone number, drug-storage location, and white Chevrolet truck. Police obtained warrants for Sommer's apartment and business, found marijuana and paraphernalia, and arrested Sommer. Because police found only small amounts of drugs despite the informant's report of larger quantities, Detective Vinson searched Sommer's vehicle without a warrant after obtaining the vehicle keys from the jail; he found two to three pounds of marijuana in the spare tire.

PROCEDURAL HISTORY

Police searched Sommer's apartment and business under warrants and then searched his vehicle without a warrant after finding less contraband than expected. The district court denied Sommer's suppression motion. Sommer entered conditional guilty pleas to possession of marijuana with intent to deliver or manufacture, possession of paraphernalia, and possession of marijuana, and appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Beane, 2009 ND 146, ¶ 8, 770 N.W.2d 283
- City of Fargo v. Thompson, 520 N.W.2d 578, 581 (N.D. 1994)
- State v. Dudley, 2010 ND 39, ¶¶ 6-7, 779 N.W.2d 369
- State v. Zwicke, 2009 ND 129, ¶¶ 6-11, 767 N.W.2d 869
- Sayler v. N.D. Dep't of Transp., 2007 ND 165, ¶ 18, 740 N.W.2d 94
- State v. Dunn, 2002 ND 189, ¶ 4, 653 N.W.2d 688
- State v. Doohen, 2006 ND 239, ¶ 10, 724 N.W.2d 158
- State v. Wamre, 1999 ND 164, ¶ 6, 599 N.W.2d 268
- State v. Frohlich, 506 N.W.2d 729, 731 (N.D. 1993)
- State v. Binns, 194 N.W.2d 756, 759 (N.D. 1972)
- Maryland v. Dyson, 527 U.S. 465, 466-67 (1999)
- California v. Carney, 471 U.S. 386, 391-92 (1985)
- Carroll v. United States, 267 U.S. 132 (1925)
- State v. Garrett, 1998 ND 173, ¶ 23, 584 N.W.2d 502
- State v. Haibeck, 2004 ND 163, ¶ 12, 685 N.W.2d 512
- Michigan v. Thomas, 458 U.S. 259, 261 (1982)
- Florida v. White, 526 U.S. 559, 565 (1999)