

SUPREME COURT OF THE STATE OF WASHINGTON

State v. Flores

186 Wn.2d 576, 380 P.3d 1143 (2016) · No. 91986-1 · Decided September 15, 2016

SUMMARY

The Washington Supreme Court held that, under article I, section 7 of the Washington Constitution, officers may briefly seize a nonarrested companion of an arrestee to secure the scene when they have an objective rationale based on safety concerns. The seizure must remain reasonable in scope and duration, and the objective-rationale standard is distinct from the individualized reasonable-suspicion standard required for an investigatory Terry stop. The court reversed the Court of Appeals and held that evidence of the firearm found on Cody Flores should not have been suppressed.

CASE DETAILS

COURT	Supreme Court of the State of Washington
WRITING FOR THE COURT	Stephens, J.
JURISDICTION	Washington
DECIDED	September 15, 2016
DOCKET	91986-1
DISPOSITION	reversed
PROCEDURAL POSTURE	The State sought review of the Washington Court of Appeals' decision affirming suppression of a firearm and related statements in a prosecution for first degree unlawful possession of a firearm.
STANDARD OF REVIEW	Conclusions of law from an order suppressing evidence are reviewed de novo. Unchallenged trial-court factual findings are treated as verities on appeal.
PRECEDENTIAL VALUE	Published Washington Supreme Court en banc opinion; binding precedent in Washington.
PARTIES	State of Washington v. Cody Ray Flores

TOPICS

search and seizure

fourth amendment

suppression of evidence

criminal procedure

evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether officers executing a lawful arrest may seize a nonarrested companion of the arrestee without individualized Terry reasonable suspicion when the seizure is justified by officer-safety concerns and the need to secure the arrest scene.
2. Whether the officers' initial detention of Flores and the later order that he walk backward toward an officer constituted one continuous, permissible seizure or two separate seizures requiring independent justification.
3. Whether the firearm discovered after Flores voluntarily stated that he had a gun should have been suppressed.

HOLDINGS

1. Under article I, section 7 of the Washington Constitution, officers executing an arrest may seize a nonarrested companion to control the scene of the arrest when they can articulate an objective rationale predicated specifically on safety concerns for officers, the arrestee, companions, or other citizens.
2. The seizure of a nonarrested companion under the objective-rationale test must remain reasonably limited in scope and duration to controlling the scene of the arrest and ensuring safety.
3. The officers had an objective safety rationale to seize Flores, and the firearm evidence should not have been suppressed.

KEY QUOTATIONS

"We hold that when executing an arrest, officers may seize nonarrested companions to control the scene of the arrest if they can articulate an objective rationale predicated specifically on safety concerns for the officers, the arrestee, his or her companions, or other citizens." (at 17)

"Officers' authority to intrude into an individual's privacy is likewise limited in scope and duration; they may control the movements of nonarrested companions only to control the scene of the arrest." (at 18)

"There was but one seizure, and both McCain and Oiumette's actions were justified by the ongoing need to control the scene of Powell's arrest." (at 22)

FACTUAL BACKGROUND

Police were dispatched to investigate an anonymous report that Giovanni Powell had pointed a gun at someone's head and learned that Powell had an outstanding arrest warrant. An officer recognized Powell walking with Flores, who was not suspected of criminal activity, and ordered both men to their knees with their hands raised while several officers arrived with firearms drawn. During the effort to secure Powell, another officer ordered Flores to walk backward toward him; Flores volunteered that he had a gun, and the officer removed it.

PROCEDURAL HISTORY

Flores moved under CrR 3.6 to suppress the gun and statements concerning it, arguing that police unlawfully seized him without individualized reasonable suspicion. The trial court granted suppression and dismissed the charge without prejudice. Division Three of the Court of Appeals affirmed. The Washington Supreme Court granted review and reversed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The court reversed the Court of Appeals' decision affirming suppression. The opinion held that the firearm evidence should not have been suppressed; no further remand instruction is stated.

CASES CITED

- Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)
- State v. Hill, 123 Wash. 2d 641, 644, 647, 870 P.2d 313 (1994)
- State v. Harrington, 167 Wash. 2d 656, 663, 670, 222 P.3d 92 (2009)
- State v. Valdez, 167 Wash. 2d 761, 773, 224 P.3d 751 (2009)
- State v. Mendez, 137 Wash. 2d 208, 219-26, 970 P.2d 722 (1999)
- State v. Myrick, 102 Wash. 2d 506, 510, 688 P.2d 151 (1984)
- State v. White, 135 Wash. 2d 761, 768, 958 P.2d 982 (1998)
- State v. Afana, 169 Wash. 2d 169, 179, 233 P.3d 879 (2010)
- State v. Duncan, 146 Wash. 2d 166, 171-73, 43 P.3d 513 (2002)
- State v. Rankin, 151 Wash. 2d 689, 695, 92 P.3d 202 (2004)
- State v. Parker, 139 Wash. 2d 486, 501-03, 516-18, 987 P.2d 73 (1999)
- State v. Horrace, 144 Wash. 2d 386, 392-98, 28 P.3d 753 (2001)
- State v. Reynolds, 144 Wash. 2d 282, 288-89, 27 P.3d 200 (2001)
- State v. Fuentes, 183 Wash. 2d 149, 352 P.3d 152 (2015)
- State v. Chacon Arreola, 176 Wash. 2d 284, 294, 290 P.3d 983 (2012)
- State v. Bee Xiong, 164 Wash. 2d 506, 511, 191 P.3d 1278 (2008)
- State v. Galbert, 70 Wash. App. 721, 724-25, 855 P.2d 310 (1993)
- State v. Thompson, 93 Wash. 2d 838, 841, 613 P.2d 525 (1980)
- State v. Broadnax, 98 Wash. 2d 289, 295, 654 P.2d 96 (1982)
- State v. Belieu, 112 Wash. 2d 587, 601-02, 773 P.2d 46 (1989)
- State v. King, 89 Wash. App. 612, 949 P.2d 856 (1998)
- State v. Z.U.E., 183 Wash. 2d 610, 352 P.3d 796 (2015)
- State v. Russell, 180 Wash. 2d 860, 869, 872, 330 P.3d 151 (2014)
- State v. Kennedy, 107 Wash. 2d 1, 12, 726 P.2d 445 (1986)

- State v. Massey, 68 Wash. 2d 88, 89, 411 P.2d 422 (1966)
- State v. Manning, 57 Wash. 2d 327, 329, 356 P.2d 721 (1960)
- State v. Young, 135 Wash. 2d 498, 513-14, 957 P.2d 681 (1998)
- State v. Gatewood, 163 Wash. 2d 534, 539, 182 P.3d 426 (2008)
- State v. Ladson, 138 Wash. 2d 343, 349, 979 P.2d 833 (1999)
- State v. Hendrickson, 129 Wash. 2d 61, 70, 917 P.2d 563 (1996)
- State v. Byrd, 178 Wash. 2d 611, 616, 310 P.3d 793 (2013)
- State v. Day, 161 Wn.2d 889, 897, 168 P.3d 1265 (2007)
- State v. Johnson, 128 Wash. 2d 431, 454, 909 P.2d 293 (1996)
- State v. Patterson, 112 Wash. 2d 731, 774 P.2d 10 (1989)
- State v. Horrace, 144 Wash. 2d 386, 395-98, 28 P.3d 753 (2001)