

SUPREME COURT OF OREGON

State v. Delong

357 Or 365 (2015) · No. SC S062176; CA A146907; CC 09CR1050FE · Decided June 18, 2015

SUMMARY

The Oregon Supreme Court held that voluntary consent to search may attenuate the taint from a failure to provide Miranda warnings in violation of Article I, section 12, of the Oregon Constitution. In determining whether physical evidence derived from an unwarned custodial question must be suppressed, courts consider the nature of the violation, the character of the consent, and the causal relationship between the violation and the evidence. The court reversed the Court of Appeals and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Kistler, J.; Brewer, J.; Walters, J.; Baldwin, J.
JURISDICTION	Oregon
DECIDED	June 18, 2015
DOCKET	SC S062176; CA A146907; CC 09CR1050FE
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State petitioned for review of the Oregon Court of Appeals' decision reversing the trial court's denial of Delong's motion to suppress physical evidence and post-warning statements.
STANDARD OF REVIEW	De novo review of the legal question whether physical evidence derived from an admitted Article I, section 12, Miranda violation; factual findings from the suppression hearing were taken consistently with the trial court's ruling.
PRECEDENTIAL VALUE	published precedential Oregon Supreme Court opinion
PARTIES	State of Oregon v. William Rick Delong

TOPICS

- criminal procedure
- miranda rights
- suppression of evidence
- exclusionary rule

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether physical evidence discovered during a consent search derived from an admitted violation of Article I, section 12, of the Oregon Constitution when the defendant was questioned in custody without Miranda warnings and then invited the search.
2. Whether the Court of Appeals should decide in the first instance whether opening the fanny pack exceeded the scope of Delong's invitation to search.
3. If the search exceeded the scope of consent, whether Delong's post-warning statements were admissible.

HOLDINGS

1. Voluntary consent or an invitation to search can attenuate the taint of a failure to give Miranda warnings in violation of Article I, section 12, of the Oregon Constitution.
2. Delong's invitation to search his vehicle attenuated the taint of the unwarned question, so the physical evidence found in the vehicle did not derive from the Article I, section 12, violation.
3. The Court of Appeals must decide whether the search exceeded the scope of Delong's invitation. If it did not, the physical evidence and post-warning statements are presumably admissible; if it did, the Court of Appeals must determine whether the belated Miranda warnings rendered the statements admissible.

KEY QUOTATIONS

“voluntary consent to search can attenuate the taint of failing to give a Miranda warning in violation of Article I, section 12, of the Oregon Constitution” (at 366)

“That legal determination—whether, in the circumstances of a particular case, consent has so attenuated the connection between the prior illegal conduct and the evidence obtained in the consent search—requires a court to consider the illegal conduct that comprised the stop or search, the character of the consent, and the causal relationship between the two.” (at 378)

“Under the analysis in Kennedy and Rodriguez, defendant’s invitation to search his car attenuated the taint flowing from Robeson’s unwarned question.” (at 385)

FACTUAL BACKGROUND

A deputy stopped Delong for a seat-belt violation after observing conduct suggesting that Delong was attempting to avoid the patrol car. The deputy removed Delong from his vehicle, frisked and handcuffed him, placed him in the back of a patrol car, and asked without Miranda warnings whether there was anything in the vehicle that should concern the deputies. Delong answered no and said that the deputies could search the vehicle; a subsequent search uncovered methamphetamine and drug paraphernalia. After the search, Delong received Miranda warnings and made incriminating statements.

PROCEDURAL HISTORY

During a traffic stop, the trial court denied Delong's suppression motion and admitted physical evidence found in his vehicle and statements made after Miranda warnings. The Court of Appeals reversed, holding that the physical evidence and later statements derived from an Article I, section 12, Miranda violation. The Oregon Supreme Court reversed the Court of Appeals and remanded for it to decide whether the search exceeded the scope of Delong's invitation and, if necessary, whether his post-warning statements were admissible.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals must determine whether the deputy exceeded the scope of Delong's invitation by opening the fanny pack. If the search was within scope, it must address the admissibility of Delong's post-warning statements; if the search exceeded the scope, it must determine whether the belated Miranda warnings were effective.

CASES CITED

- State v. Vondehn, 348 Or 462, 236 P3d 691 (2010)
- State v. Jarnagin, 351 Or 703, 277 P3d 535 (2012)
- State v. Unger, 356 Or 59, 333 P3d 1009 (2014)
- State v. Kennedy, 290 Or 493, 624 P2d 99 (1981)
- State v. Rodriguez, 317 Or 27, 854 P2d 399 (1993)
- State v. Wright, 315 Or 124, 843 P2d 436 (1992)
- Miranda v. Arizona, 384 US 436, 86 S Ct 1602, 16 L Ed 2d 694 (1966)
- Missouri v. Seibert, 542 US 600, 124 S Ct 2601, 159 L Ed 2d 643 (2004)
- Oregon v. Elstad, 470 US 298, 105 S Ct 1285, 84 L Ed 2d 222 (1985)
- United States v. Patane, 542 US 630, 124 S Ct 2620, 159 L Ed 2d 667 (2004)
- State v. Hall, 339 Or 7, 115 P3d 908 (2005)
- State v. Cunningham, 179 Or App 498, 40 P3d 535 (2002)
- State v. Crandall, 340 Or 645, 136 P3d 30 (2006)
- State v. Foster, 288 Or 649, 607 P2d 173 (1980)
- State v. Mendacino, 288 Or 231, 603 P2d 1376 (1980)
- State v. Ayles, 348 Or 622, 237 P3d 805 (2010)
- State v. Davis, 313 Or 246, 834 P2d 1008 (1992)
- State v. Joslin, 332 Or 373, 29 P3d 1112 (2001)
- State v. Smith, 310 Or 1, 791 P2d 836 (1990)
- State v. Roble-Baker, 340 Or 631, 136 P3d 22 (2006)
- State v. Scott, 343 Or 195, 166 P3d 528 (2007)
- State v. Meade, 327 Or 335, 963 P2d 656 (1998)

- State v. Brewton, 247 Or 241, 422 P2d 581 (1967)
- Nardone v. United States, 308 US 338, 60 S Ct 266, 84 L Ed 307 (1939)
- Wong Sun v. United States, 371 US 471, 83 S Ct 407, 9 L Ed 2d 441 (1963)

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