

SUPREME COURT OF UTAH

State v. Brake, 2004 UT 95

103 P.3d 699 (Utah 2004) · No. No. 20020594 · Decided November 12, 2004

SUMMARY

The Utah Supreme Court held that a law enforcement officer's warrantless search of a vehicle for identification and officer-safety purposes violated the Fourth Amendment. The court rejected reliance on *New York v. Class* and adopted a weapons-search standard requiring a reasonable, articulable suspicion that the suspect was dangerous and that weapons might be immediately accessible. The court reversed the Utah Court of Appeals and remanded for proceedings consistent with the opinion.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Nehring; Chief Justice Durham; Associate Chief Justice Wilkins; Justice Durrant; Justice Parrish
JURISDICTION	Utah
DECIDED	November 12, 2004
DOCKET	No. 20020594
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Utah Supreme Court granted certiorari to review the Utah Court of Appeals' affirmance of the denial of Brake's motion to suppress evidence obtained during a warrantless automobile search. Brake had entered a conditional guilty plea to attempted possession of a controlled substance.
STANDARD OF REVIEW	On certiorari, the Supreme Court reviews the court of appeals' decision for correctness and gives no deference to that court. In search-and-seizure cases, factual findings are reviewed under the clearly erroneous standard, while legal questions and the application of law to facts necessary to determine the legality of a search are reviewed for correctness. The court abandoned the prior standard that gave some deference to the application of law to facts in search-and-seizure cases.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Utah.
PARTIES	Angie Brake v. State of Utah

TOPICS

search and seizure

fourth amendment

suppression of evidence

warrant requirement

appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. What standard of review applies to the legality of a warrantless automobile search in a search-and-seizure case?
2. Whether an officer's generalized safety concerns, without a reasonable and articulable suspicion that the suspect is dangerous and that weapons may be present and accessible, justify a warrantless search of a vehicle interior.
3. Whether the officer's warrantless entry into and search of Brake's vehicle to retrieve identification was lawful under the Fourth Amendment.

HOLDINGS

1. The application of law to facts necessary to determine the legality of a search is reviewed for correctness without deference to the lower court.
2. A warrantless vehicle search justified as a weapons search is valid only when the officer reasonably believes both that the suspect is dangerous and that the suspect may obtain immediate control of weapons.
3. The officer's warrantless entry into and search of Brake's vehicle was unlawful because the circumstances did not create a reasonable, articulable suspicion that weapons were present.

KEY QUOTATIONS

"We abandon the standard which extended "some deference" to the application of law to the underlying factual findings in search and seizure cases in favor of non-deferential review." (¶ 15, 103 P.3d at 703)

"a search will be valid only if the officer reasonably believes both that the suspect is dangerous, and that he may obtain immediate control of weapons." (¶ 26, 103 P.3d at 705)

"In the absence of more suspicious circumstances, Sergeant Castleberry's warrantless search under the auspices of searching for weapons was unlawful." (¶ 38, 103 P.3d at 707)

FACTUAL BACKGROUND

A police officer encountered two vehicles stopped late at night in a secluded area. After speaking with the occupants of one vehicle, the officer told Brake not to retrieve identification from her purse and instead entered the vehicle to obtain it himself. While inside, he observed a bundle of cocaine; he later testified that officer-safety concerns motivated the entry, although he had seen no weapon, furtive movement, or conduct suggesting that a weapon was present.

PROCEDURAL HISTORY

After a police officer entered Brake's vehicle to retrieve a purse and observed cocaine, Brake moved to suppress the cocaine and incriminating statements. The trial court denied suppression of the cocaine but suppressed the statements. The court of appeals affirmed the ruling concerning the search. The Utah Supreme Court reversed the court of appeals and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the trial court for proceedings consistent with the opinion and Brake's conditional guilty plea.

CASES CITED

- State v. Hansen, 2002 UT 125, 63 P.3d 650
- Longley v. Leucadia Fin. Corp., 2000 UT 69, 9 P.3d 762
- Grand County v. Rogers, 2002 UT 25, 44 P.3d 734
- State v. James, 2000 UT 80, 13 P.3d 576
- State v. Pena, 869 P.2d 932 (Utah 1994)
- State v. Loya, 2001 UT App 3, 18 P.3d 1116
- State v. Thurman, 846 P.2d 1256 (Utah 1993)
- State v. Warren, 2003 UT 36, 78 P.3d 590
- New York v. Class, 475 U.S. 106 (1986)
- State v. Schlosser, 774 P.2d 1132 (Utah 1989)
- State v. Larocco, 794 P.2d 460 (Utah 1990)
- State v. Christensen, 676 P.2d 408 (Utah 1984)
- State v. Limb, 581 P.2d 142 (Utah 1978)
- Michigan v. Long, 463 U.S. 1032 (1983)
- State v. Chapman, 921 P.2d 446 (Utah 1996)
- State v. Bradford, 839 P.2d 866 (Utah Ct. App. 1992)
- State v. Roybal, 716 P.2d 291 (Utah 1986)
- Terry v. Ohio, 392 U.S. 1 (1968)
- United States v. Place, 462 U.S. 696 (1983)
- Maryland v. Wilson, 519 U.S. 408 (1997)
- Pennsylvania v. Mimms, 434 U.S. 106 (1977)
- United States v. Holt, 264 F.3d 1215 (10th Cir. 2001)
- State v. Warren, 2001 UT App 346, 37 P.3d 270
- State v. Anderson, 910 P.2d 1229 (Utah 1996)

