

SUPREME COURT OF ILLINOIS

The People of the State of Illinois v. Robert W. Wear, 229 Ill. 2d 545

893 N.E.2d 631 (Ill. 2008) · No. No. 104181 · Decided July 24, 2008

SUMMARY

The Supreme Court of Illinois considered whether an officer's warrantless entry into a residence and arrest for suspected driving under the influence violated the Fourth Amendment. The court reviewed the rescission of Robert W. Wear's statutory summary suspension and addressed probable cause, hot pursuit, and the applicable standard of review. The court affirmed the circuit court's ruling in Wear's favor.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Illinois                                                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Justice Fitzgerald; Chief Justice Thomas; Justice Garman; Justice Karmeier; Justice Burke; Justice Freeman; Justice Kilbride                                                                                                                                                                     |
| JURISDICTION          | Illinois                                                                                                                                                                                                                                                                                         |
| DECIDED               | July 24, 2008                                                                                                                                                                                                                                                                                    |
| DOCKET                | No. 104181                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | The State appealed an order rescinding Wear's statutory summary suspension and granting his motion to suppress evidence and quash his DUI arrest. The Illinois Supreme Court reviewed the appellate court's reversal of the rescission order after allowing Wear's petition for leave to appeal. |
| STANDARD OF REVIEW    | Historical factual findings are reviewed for clear error or, under Illinois terminology, against the manifest weight of the evidence, with due weight given to factual inferences. The ultimate legal ruling on whether rescission should be granted is reviewed de novo.                        |
| PRECEDENTIAL VALUE    | published precedential opinion of the Supreme Court of Illinois                                                                                                                                                                                                                                  |
| PARTIES               | Robert W. Wear v. The People of the State of Illinois                                                                                                                                                                                                                                            |

TOPICS

- fourth amendment
- search and seizure
- probable cause
- warrant requirement
- appellate procedure

## PRACTICE AREAS

criminal procedure

constitutional law

DUI and implied consent

appellate procedure

## QUESTIONS PRESENTED

1. Whether the officer had probable cause to arrest Wear for DUI before entering the residence.
2. Whether the officer's warrantless, nonconsensual entry into the residence was justified under the Fourth Amendment hot-pursuit exception.
3. Whether the statutory summary suspension of Wear's driving privileges should be rescinded for lack of reasonable grounds.
4. What standard of review applies to an appeal from a petition to rescind a statutory summary suspension.

## HOLDINGS

1. Considering the totality of the circumstances objectively, Officer Dawdy had probable cause to arrest Wear for DUI at least by the time Wear stood at the residence threshold.
2. The warrantless, nonconsensual entry into the residence was reasonable under the Fourth Amendment because Officer Dawdy had probable cause to arrest Wear at the threshold and was in hot pursuit when Wear continued into the home.
3. The statutory summary suspension should not be rescinded because the State established reasonable grounds, equivalent in this proceeding to probable cause, for Wear's DUI arrest.
4. The reviewing court defers to historical factual findings unless clearly erroneous or against the manifest weight of the evidence, but reviews the ultimate legal ruling de novo.

## KEY QUOTATIONS

*“It is a basic principle of the fourth amendment that searches and seizures inside a home without a warrant are presumptively unreasonable.” (642)*

*“Probable cause does not even demand a showing that the belief that the suspect has committed a crime be more likely true than false.” (643)*

*“Our cases have repeatedly rejected this approach. An action is ‘reasonable’ under the Fourth Amendment, regardless of the individual officer’s state of mind, ‘as long as the circumstances, viewed objectively, justify [the] action.’” (644)*

*“Notwithstanding the warrant requirement, a suspect may not defeat an arrest that was set in motion in a public place by escaping to a private place.” (645)*

## FACTUAL BACKGROUND

Officer Christopher Dawdy observed Wear driving at a potentially excessive speed, swerving, failing to signal, failing to stop promptly for police lights, and rolling through a stop sign. Wear drove into his girlfriend's driveway, exited the vehicle, ignored repeated commands to stop and return, and proceeded toward the residence. At the threshold, Dawdy observed that Wear was staggering and swaying, smelled alcohol on his

breath, and heard Wear repeatedly say, "I made it home." Dawdy followed Wear through the open doorway and arrested him inside without a warrant.

## PROCEDURAL HISTORY

Wear was arrested for DUI after Officer Dawdy followed him to his girlfriend's residence and entered the home without a warrant. The circuit court initially denied Wear's petition to rescind the statutory summary suspension and denied his suppression and quash motions, but later reconsidered and granted them based on a finding of no reasonable grounds. The appellate court reversed as to the summary-suspension proceeding, concluding that probable cause and hot pursuit justified the warrantless entry. The Supreme Court of Illinois affirmed the appellate court.

## DISPOSITION

affirmed

## CASES CITED

- People v. Lagle, 200 Ill. App. 3d 948, 558 N.E.2d 514 (1990)
- United States v. Santana, 427 U.S. 38, 49 L. Ed. 2d 300, 96 S. Ct. 2406 (1976)
- People v. Smith, 172 Ill. 2d 289, 665 N.E.2d 1215 (1996)
- Terry v. Ohio, 392 U.S. 1, 20 L. Ed. 2d 889, 88 S. Ct. 1868 (1968)
- People v. Luedemann, 222 Ill. 2d 530, 857 N.E.2d 187 (2006)
- People v. Rush, 319 Ill. App. 3d 34, 745 N.E.2d 157 (2001)
- People v. Fortney, 297 Ill. App. 3d 79, 697 N.E.2d 1 (1998)
- Ornelas v. United States, 517 U.S. 690, 134 L. Ed. 2d 911, 116 S. Ct. 1657 (1996)
- People v. Sorenson, 196 Ill. 2d 425, 752 N.E.2d 1078 (2001)
- People v. Pitman, 211 Ill. 2d 502, 813 N.E.2d 93 (2004)
- Welsh v. Wisconsin, 466 U.S. 740, 80 L. Ed. 2d 732, 104 S. Ct. 2091 (1984)
- Payton v. New York, 445 U.S. 573, 63 L. Ed. 2d 639, 100 S. Ct. 1371 (1980)
- United States v. Reed, 572 F.2d 412, 423 (2d Cir. 1978)
- Brigham City v. Stuart, 547 U.S. 398, 164 L. Ed. 2d 650, 126 S. Ct. 1943 (2006)
- Flippo v. West Virginia, 528 U.S. 11, 145 L. Ed. 2d 16, 120 S. Ct. 7 (1999) (per curiam)
- Katz v. United States, 389 U.S. 347, 19 L. Ed. 2d 576, 88 S. Ct. 507 (1967)
- People v. Love, 199 Ill. 2d 269, 769 N.E.2d 10 (2002)
- People v. Tisler, 103 Ill. 2d 226, 469 N.E.2d 147 (1984)
- Illinois v. Gates, 462 U.S. 213, 76 L. Ed. 2d 527, 103 S. Ct. 2317 (1983)
- Brinegar v. United States, 338 U.S. 160, 93 L. Ed. 1879, 69 S. Ct. 1302 (1949)
- People v. Wright, 111 Ill. 2d 128, 490 N.E.2d 640 (1985)
- People v. Garvin, 219 Ill. 2d 104, 847 N.E.2d 82 (2006)

- People v. Lee, 214 Ill. 2d 476, 828 N.E.2d 237 (2005)
- People v. Jones, 215 Ill. 2d 261, 830 N.E.2d 541 (2005)
- Texas v. Brown, 460 U.S. 730, 75 L. Ed. 2d 502, 103 S. Ct. 1535 (1983)
- LaLonde v. County of Riverside, 204 F.3d 947 (9th Cir. 2000)
- In re D.W., 341 Ill. App. 3d 517, 793 N.E.2d 46 (2003)
- People v. Foskey, 136 Ill. 2d 66, 554 N.E.2d 192 (1990)
- Wyoming v. Houghton, 526 U.S. 295, 143 L. Ed. 2d 408, 119 S. Ct. 1297 (1999)
- Vernonia School District 47J v. Acton, 515 U.S. 646, 132 L. Ed. 2d 564, 115 S. Ct. 2386 (1995)
- McDonald v. United States, 335 U.S. 451, 93 L. Ed. 153, 69 S. Ct. 191 (1948)
- People v. Krueger, 208 Ill. App. 3d 897, 567 N.E.2d 717 (1991)
- People v. Whitfield, 228 Ill. 2d 502, 888 N.E.2d 1166 (2007)
- Minnesota v. Olson, 495 U.S. 91, 109 L. Ed. 2d 85, 110 S. Ct. 1684 (1990)

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