

OHIO COURT OF APPEALS, TENTH APPELLATE DISTRICT

State v. Peeks

2021-Ohio-3045 (Ohio Ct. App. 2021) · No. 20AP-191 · Decided September 2, 2021

SUMMARY

The Ohio Tenth District Court of Appeals affirmed the suppression of cocaine discovered during a pat-down search of Halbert Peeks following a traffic stop. The court held that the officer lacked articulable facts establishing reasonable suspicion that Peeks was armed and dangerous and rejected application of the good-faith exception to the warrantless search.

CASE DETAILS

COURT	Ohio Court of Appeals, Tenth Appellate District
WRITING FOR THE COURT	Brogan, J.; Brown, J.; Luper Schuster, J.
JURISDICTION	Ohio
DECIDED	September 2, 2021
DOCKET	20AP-191
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed the Franklin County Court of Common Pleas order granting Peeks's motion to suppress cocaine discovered during a warrantless pat-down search.
STANDARD OF REVIEW	Suppression rulings present mixed questions of fact and law. The appellate court accepts factual findings supported by competent, credible evidence and reviews legal conclusions de novo.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion; precedential within the applicable Ohio appellate framework.
PARTIES	State of Ohio v. Halbert Peeks

TOPICS

suppression of evidence fourth amendment search and seizure probable cause exclusionary rule

PRACTICE AREAS

criminal procedure constitutional law evidence appellate procedure

QUESTIONS PRESENTED

1. Whether the totality of the circumstances established probable cause to arrest Peeks for operating a vehicle while impaired.
2. Whether the circumstances established reasonable suspicion that Peeks was armed and dangerous sufficient to justify a Terry pat-down.
3. Whether reasonable suspicion to investigate possible impaired driving permitted the officer to frisk or search Peeks.
4. Whether the good-faith exception to the exclusionary rule applied to the warrantless pat-down search.

HOLDINGS

1. Reasonable suspicion that justified requesting field-sobriety tests did not, without articulable facts indicating that Peeks was armed and dangerous, justify a frisk for weapons.
2. The officer lacked probable cause to arrest Peeks for operating a vehicle while impaired, so the pat-down could not be upheld as a search incident to arrest.
3. The good-faith exception did not save evidence obtained through an unreasonable warrantless search based solely on the officer's own judgment.

KEY QUOTATIONS

"We merely hold today that where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him." (¶ 21)

"Therefore, "evidence obtained during a warrantless search by a police officer must be excluded from the prosecution's case-in-chief when the search subsequently is held unreasonable under the Fourth Amendment, even though the officer acted with the objectively reasonable belief that the search was constitutionally valid."" (¶ 26)

FACTUAL BACKGROUND

A Whitehall police officer stopped Peeks's vehicle after observing what he described as speeding, passing, and weaving, although the trial court credited only a single instance of weaving within the lane. The officer smelled alcohol, observed glassy eyes, and noted brief lack of eye contact, but the trial court found that Peeks otherwise responded appropriately, displayed no impairment or furtive movements, and did nothing to indicate that he was armed or dangerous. The officer ordered Peeks out of the vehicle and immediately conducted a pat-down, discovering a sock containing crack cocaine; no field-sobriety tests were performed.

PROCEDURAL HISTORY

Peeks was charged with first-degree felony possession and trafficking in cocaine. After a suppression hearing, the trial court suppressed the drugs. The appellate court remanded for findings of fact and conclusions of law; after the trial court issued them and again suppressed the evidence, the State appealed. The Tenth District Court of Appeals overruled all four assignments of error and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Burnside, 100 Ohio St.3d 152, 2003-Ohio-5372
- State v. Fanning, 1 Ohio St.3d 19, 20 (1982)
- Terry v. Ohio, 392 U.S. 1 (1968)
- State v. Evans, 67 Ohio St.3d 405, 408 (1993)
- Illinois v. Krull, 480 U.S. 340 (1987)
- Herring v. United States, 555 U.S. 135 (2009)
- State v. Thomas, 10th Dist. No. 14AP-185, 2015-Ohio-1778
- United States v. Camou, 773 F.3d 932, 945 (9th Cir. 2014)
- United States v. Leon, 468 U.S. 897 (1984)
- State v. Dibble, 159 Ohio St.3d 322, 2020-Ohio-546
- State v. Simon, 119 Ohio App.3d 484 (9th Dist. 1997)
- State v. Dickman, 10th Dist. No. 14AP-597, 2015-Ohio-1915
- Beck v. Ohio, 379 U.S. 89, 97 (1964)