

SUPREME COURT OF OHIO

State v. Brown

142 Ohio St. 3d 92 (Ohio 2015) · No. 2013-1110; 2013-1111; 2013-1112 · Decided February 18, 2015

SUMMARY

The Ohio Supreme Court held that a probate judge generally lacks authority to issue search warrants in criminal matters because Ohio statutes exclude probate judges from the relevant definitions of “judge” and “court.” The court recognized an exception when the probate judge has been assigned by the chief justice to sit temporarily in another division of the court of common pleas, but found that exception inapplicable here. The court nevertheless upheld application of the federal good-faith exception to the exclusionary rule and remanded the cases for further proceedings.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Neill, J.; O'Connor, C.J.; O'Donnell, J.; Pfeifer, J.; Lanzinger, J.; Kennedy, J.; French, J.
JURISDICTION	Ohio
DECIDED	February 18, 2015
DOCKET	2013-1110; 2013-1111; 2013-1112
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed consolidated Fifth District Court of Appeals judgments holding that probate judges lacked authority to issue criminal search warrants. The Supreme Court of Ohio affirmed that ruling and remanded the cases for further proceedings.
STANDARD OF REVIEW	De novo review because the case presented a question of law.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential.
PARTIES	State of Ohio v. Todd Brown, Jeff Shipley, Raymond McCloude

TOPICS

[search and seizure](#) [warrant requirement](#) [exclusionary rule](#) [suppression of evidence](#) [statutory interpretation](#)

PRACTICE AREAS

[criminal procedure](#) [search and seizure](#) [evidence](#)

QUESTIONS PRESENTED

1. Whether a probate judge has authority to hear evidence and issue a search warrant in a criminal matter.
2. Whether the evidence obtained under the unlawful warrant was subject to suppression or was admissible under the good-faith exception to the exclusionary rule.

HOLDINGS

1. Unless assigned by the chief justice under Article IV, Section 5(A)(3) of the Ohio Constitution to temporarily sit or hold court in another division of a court of common pleas, a probate judge lacks authority to issue a search warrant in a criminal matter.
2. The good-faith exception to the exclusionary rule applies when law-enforcement officers reasonably rely on a search warrant issued by a detached and neutral magistrate, even if the warrant is later determined to be unlawful.

KEY QUOTATIONS

“We hold that they do not. Unless a probate judge has been assigned by the chief justice pursuant to Article IV, Section 5(A)(3) of the Ohio Constitution to temporarily sit or hold court in another division of a court of common pleas a probate judge does not have the authority to hear evidence and issue search warrants in criminal matters.” (¶ 1)

“Plainly, pursuant to the Ohio Revised Code, a probate judge does not have the authority to issue a search warrant in a criminal case.” (¶ 8)

“We hold that unless appointed by the chief justice pursuant to Article IV, Section 5(A)(3) of the Ohio Constitution, a probate judge does not have the authority to issue search warrants in criminal matters.” (¶ 10)

FACTUAL BACKGROUND

In February 2012, an Alliance police detective obtained a search warrant from a judge of the Stark County Court of Common Pleas, Probate Division, to search a business for evidence of illegal gambling. Police seized more than 30 video slot machines, leading to criminal charges against Todd Brown, Jeff Shipley, and Raymond McCloude. The defendants moved to suppress the evidence, arguing that the probate judge lacked authority to issue a criminal search warrant.

PROCEDURAL HISTORY

A Stark County probate judge issued a warrant authorizing a search for evidence of illegal gambling. The municipal court granted the defendants' motions to suppress, concluding that the warrant was unlawful. The Fifth District affirmed the probate judge's lack of authority but reversed the suppression orders under the good-faith exception to the exclusionary rule. The State appealed to the Supreme Court of Ohio.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The matters were remanded to the trial court for further proceedings consistent with the opinion. The appellate ruling that the evidence would not be suppressed remained in effect.

CASES CITED

- In re J.V., 134 Ohio St. 3d 1, 2012-Ohio-4961, 979 N.E.2d 1203, ¶ 3
- State v. Cotton, 56 Ohio St. 2d 8, 12-13, 381 N.E.2d 190 (1978)
- Dunbar v. State, 136 Ohio St. 3d 181, 2013-Ohio-2163, 992 N.E.2d 1111, ¶ 16
- United States v. Leon, 468 U.S. 897, 104 S. Ct. 3405, 82 L. Ed. 2d 677 (1984)
- United States v. Payner, 447 U.S. 727, 734, 100 S. Ct. 2439, 65 L. Ed. 2d 468 (1980)