

SUPREME COURT OF SOUTH DAKOTA

State v. Bowker

2008 SD 61 (2008) · No. No. 24502 · Decided July 9, 2008

SUMMARY

The Supreme Court of South Dakota affirmed Frankie Lee Bowker’s convictions for possession of a controlled substance and possession of drug paraphernalia. The court held that exigent circumstances justified the officers’ warrantless entry to check on the occupants’ well-being, and that Bowker’s statements were not obtained through custodial interrogation requiring Miranda warnings. The court also addressed the admissibility of documentary evidence and alleged prosecutorial misconduct.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gilbertson, Chief Justice; Sabers, Justice; Konenkamp, Justice; Zinter, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	July 9, 2008
DOCKET	No. 24502
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bowker appealed from convictions for possession of a controlled substance and possession of drug paraphernalia after the circuit court denied motions to suppress evidence and statements, admitted documentary evidence, and entered judgment following a jury trial.
STANDARD OF REVIEW	Constitutional suppression issues are reviewed de novo, with the trial court's factual findings reviewed for clear error. Custody under Miranda presents a mixed question of law and fact subject to independent review. Evidentiary rulings are reviewed for abuse of discretion. Unpreserved claims are reviewed for plain error.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Frankie Lee Bowker v. State of South Dakota

TOPICS

- search and seizure
- warrant requirement
- fourth amendment
- miranda rights
- suppression of evidence

PRACTICE AREAS

criminal procedure

constitutional criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the officers' warrantless entry into the house and apartment was justified by exigent circumstances.
2. Whether Bowker's pre-arrest statements were obtained during custodial interrogation without Miranda warnings.
3. Whether documentary evidence obtained from the apartment was relevant and properly admitted.
4. Whether the State's comments concerning Bowker's request for a warrant constituted plain error requiring reversal.

HOLDINGS

1. The warrantless entry into the house and apartment was objectively justified by exigent circumstances because the officers reasonably believed that a burglary or assault may have occurred and that someone inside might need immediate medical assistance.
2. Bowker's statements were not obtained during custodial interrogation requiring Miranda warnings because the officers' questioning was general, on-the-scene fact gathering and a reasonable person in Bowker's position would have understood that she was free to leave before her arrest.
3. The trial court did not abuse its discretion by admitting the documentary exhibit because the State laid a foundation showing that the documents had probative value concerning Bowker's presence, access to, and joint possession of the apartment and the drug-related activity there.
4. The prosecutor's comments were not grounds for reversal under the plain-error standard because, despite the court's disapproval of the conduct, Bowker failed to show prejudicial plain error affecting the fairness, integrity, or public reputation of the proceedings.

KEY QUOTATIONS

"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.'" (¶ 20)

"A reasonable person in Bowker's situation would not have considered herself in custody at that time." (¶ 35)

"Plain error requires (1) error, (2) that is plain, (3) affecting substantial rights; and only then may we exercise our discretion to notice the error if (4) it 'seriously affect[s] the fairness, integrity, or public reputation of judicial proceedings.'" (¶ 46)

FACTUAL BACKGROUND

Police responded to a report that a man was on the roof of a house and encountered Shaun Corbine outside with a bleeding hand, a broken second-story window, and inconsistent information about his residence and girlfriend. Officers entered the house and second-floor apartment without a warrant to conduct a perceived emergency well-

being checked, observed blood on a bedroom doorframe, and found three methamphetamine pipes in plain view. Bowker was questioned about her connection to the apartment and the pipes, arrested, and later convicted after additional evidence was obtained pursuant to a search warrant.

PROCEDURAL HISTORY

A Minnehaha County grand jury indicted Bowker on possession charges. The Second Judicial Circuit Court denied her motions to suppress evidence obtained during a warrantless entry and statements allegedly obtained without Miranda warnings. After a jury convicted her on both counts, the court imposed suspended sentences, including 90 days in jail on the controlled-substance conviction and 30 days in jail on the paraphernalia conviction. The Supreme Court of South Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Stanga, 2000 SD 129, ¶ 8, 617 N.W.2d 486, 488
- Ornelas v. United States, 517 U.S. 690, 699 (1996)
- State v. Sweedland, 2006 SD 77, ¶¶ 12-13, 721 N.W.2d 409, 412
- Payton v. New York, 445 U.S. 573, 587 (1980)
- Brigham City, Utah v. Stuart, 547 U.S. 398, 403-04 (2006)
- State v. Meyer, 1998 SD 122, ¶¶ 20, 23, 587 N.W.2d 719, 723-24
- State v. Hess, 2004 SD 60, ¶¶ 23-25, 680 N.W.2d 314, 324-25
- State v. Dillon, 2007 SD 77, ¶¶ 18, 20, 738 N.W.2d 57, 60-61
- State v. Lamont, 2001 SD 92, ¶¶ 21, 32, 631 N.W.2d 603, 610, 614
- State v. Rhines, 1996 SD 55, ¶ 11, 548 N.W.2d 415, 426
- State v. Hamm, 89 S.D. 507, 234 N.W.2d 60, 64 (1975)
- State v. Thompson, 1997 SD 15, ¶ 25, 560 N.W.2d 535, 540
- State v. Hoadley, 2002 SD 109, ¶ 24, 651 N.W.2d 249, 256
- Thompson v. Keohane, 516 U.S. 99, 112-13 (1995)
- State v. Morato, 2000 SD 149, ¶¶ 11, 17, 619 N.W.2d 655, 659, 661
- State v. Aesoph, 2002 SD 71, ¶ 12, 647 N.W.2d 743, 750
- State v. Bartunek, 323 N.W.2d 121, 124-25 (S.D. 1982)
- State v. Myhre, 2001 SD 109, ¶¶ 20-21, 633 N.W.2d 186, 190
- State v. Crawford, 2007 SD 20, ¶ 13, 729 N.W.2d 346, 349
- State v. Asmussen, 2006 SD 37, ¶ 13, 713 N.W.2d 580, 586
- State v. Bunger, 2001 SD 116, ¶ 11, 633 N.W.2d 606, 609
- State v. Mattson, 2005 SD 71, ¶ 20, 698 N.W.2d 538, 546

- State v. Buchhold, 2007 SD 15, ¶ 17, 727 N.W.2d 816, 821
- State v. Robinson, 1999 SD 141, ¶ 17, 602 N.W.2d 730, 735
- State v. Nelson, 1998 SD 124, ¶¶ 7-8, 587 N.W.2d 439, 443
- United States v. Moreno, 233 F.3d 937, 940-41 (7th Cir. 2000)
- United States v. Thame, 846 F.2d 200, 204, 207-08 (3d Cir. 1988)
- Berdahl v. Gillis, 136 N.W.2d 633, 635 (S.D. 1965)