

SUPREME COURT OF GEORGIA

Cochran v. State, 281 Ga. 4

635 S.E.2d 701 (2006) · No. S06G0067 · Decided September 18, 2006

SUMMARY

The Supreme Court of Georgia affirmed the determination that a search warrant for cocaine at Cochran's residence was supported by probable cause. The court held that hearsay upon hearsay was not fatal because the affidavit included corroborating observations and other circumstances providing a substantial basis for the magistrate's decision.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hines, Justice
JURISDICTION	Georgia
DECIDED	September 18, 2006
DOCKET	S06G0067
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Supreme Court of Georgia granted certiorari to review the Court of Appeals' determination that the trial court erred in granting Cochran's motion to suppress evidence seized under a search warrant.
STANDARD OF REVIEW	The reviewing court determines whether the magistrate had a substantial basis for concluding that probable cause existed to issue the search warrant.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion

TOPICS

- probable cause
- search and seizure
- warrant requirement
- suppression of evidence
- criminal procedure

PRACTICE AREAS

- criminal procedure
- search and seizure
- evidence

QUESTIONS PRESENTED

1. Whether the search warrant was supported by probable cause when the affidavit included hearsay and hearsay upon hearsay from an unidentified third party.
2. Whether the affidavit provided a substantial basis for the magistrate to conclude that contraband or evidence of a crime would be found at Cochran's residence.

HOLDINGS

1. Hearsay upon hearsay is not fatal to a search warrant when the affidavit supplies underlying circumstances supporting the affiant's conclusions and demonstrating the reliability of the information.
2. The search warrant was properly supported by probable cause because the affidavit, viewed in its totality, established a fair probability that contraband or evidence of a crime would be found at Cochran's residence.
3. An informant's statement against penal interest may enhance the reliability of the information provided to police.

KEY QUOTATIONS

“The mere existence of “hearsay upon hearsay” is not fatal to the warrant, and the Court of Appeals was correct in determining that the double hearsay did not stand alone, that the magistrate was informed of underlying circumstances showing the affiant's information to be reliable, and thus, viewed in the totality of the circumstances, the magistrate had a substantial basis for issuing the warrant.” (281 Ga. 4)

FACTUAL BACKGROUND

A reliable, paid confidential informant had previously supplied information leading to the seizure of contraband on six occasions. The informant reported that a subject, later identified as Becky Ivester, entered Cochran's residence with \$40 and emerged approximately thirty seconds later holding a rock of crack cocaine. The affidavit also stated that the informant had previously taken Ivester to Cochran's residence on at least ten occasions and that law enforcement had received numerous reports from different sources that Cochran was selling crack cocaine there.

PROCEDURAL HISTORY

Cochran was arrested and charged with trafficking in cocaine after police found cocaine in his residence while executing a search warrant. The trial court granted his motion to suppress, concluding that the warrant lacked sufficient probable-cause support. The Court of Appeals reversed, and the Supreme Court of Georgia granted certiorari and affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- State v. Cochran, 275 Ga. App. 185, 620 S.E.2d 444 (2005)

- DeYoung v. State, 268 Ga. 780, 786-787, 493 S.E.2d 157 (1997)
- Wood v. State, 214 Ga. App. 848, 849, 449 S.E.2d 308 (1994)
- State v. Griffin, 154 Ga. App. 361, 268 S.E.2d 412 (1980)
- Graddy v. State, 277 Ga. 765, 596 S.E.2d 109 (2004)

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