

SUPREME COURT OF NEW JERSEY

State v. Basil

202 N.J. 570 (2010) · Decided July 20, 2010

SUMMARY

The New Jersey Supreme Court considered whether police had probable cause to arrest Eugene Basil based on an on-scene citizen identification and corroborating recovery of a shotgun. The Court held that probable cause existed, but an evenly divided Court affirmed the reversal of Basil’s conviction because the unavailable witness’s critical identification statement was admitted without a prior opportunity for cross-examination and was deemed testimonial by three members of the Court.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Albin; Justices LaVecchia; Wallace
JURISDICTION	New Jersey
DECIDED	July 20, 2010
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State petitioned for certification after the Appellate Division reversed defendant's conviction for unlawful possession of a shotgun. The Supreme Court reviewed the Appellate Division's rulings that defendant's arrest lacked probable cause and that an unavailable witness's out-of-court identification was testimonial and inadmissible under the Sixth Amendment.
STANDARD OF REVIEW	The court reviewed the suppression court's factual findings for support in sufficient credible evidence, while independently applying constitutional principles concerning probable cause and the Confrontation Clause. The State bore the burden of establishing the constitutional admissibility of the challenged statement.
PRECEDENTIAL VALUE	Published New Jersey Supreme Court opinion; the probable-cause ruling is precedential, while the Confrontation Clause ruling was affirmed by an evenly divided Court.
PARTIES	State of New Jersey v. Eugene Basil

TOPICS

criminal procedure

probable cause

fourth amendment

sixth amendment

hearsay

PRACTICE AREAS

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether the police had probable cause under the Fourth Amendment and Article I, Paragraph 7 of the New Jersey Constitution to arrest Basil without a warrant.
2. Whether Basil's alleged statement to police was obtained during an unlawful seizure and therefore required suppression.
3. Whether the unidentified woman's out-of-court identification of Basil was testimonial under *Crawford v. Washington* and *Davis v. Washington* and inadmissible because Basil had no prior opportunity to cross-examine her.
4. Whether the admission of the woman's statement was harmless beyond a reasonable doubt.

HOLDINGS

1. The police had probable cause to arrest Basil because an identifiable citizen reported a crime based on firsthand knowledge and officers immediately corroborated her account by recovering the shotgun where she said it had been discarded.
2. The police detention of Basil, including placing him in a patrol car and transporting him to the police station against his will, constituted an arrest for Fourth Amendment purposes and therefore required probable cause; that requirement was satisfied here.
3. The woman's statement identifying Basil and recounting the earlier gun-pointing incident was testimonial because it described past events after the apparent emergency had ended and was elicited primarily to investigate a possible crime. Because Basil had no prior opportunity to cross-examine her, the statement was inadmissible under the Sixth Amendment.
4. The admission of the woman's statement was not harmless beyond a reasonable doubt because her identification was the critical evidence of Basil's guilt.

KEY QUOTATIONS

"We conclude that, under both the Fourth Amendment and Article I, Paragraph 7 of our State Constitution, the police had probable cause to arrest defendant, and therefore defendant's alleged spontaneous admission to Officer Ruocco did not occur during an unlawful seizure." (589)

"Statements are nontestimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency." (592)

"In contrast, statements "are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events

potentially relevant to later criminal prosecution.”” (593)

“We conclude that the non-appearing witness’s testimonial statement was inadmissible.” (605)

FACTUAL BACKGROUND

Police responded to a report of a man with a shotgun at 199 Bidwell Avenue in Jersey City. A young woman approached officers in person, identified Basil as the person who had pointed a shotgun at her, and directed them to a shotgun discarded beneath a black Cadillac; officers promptly recovered the weapon. Basil was transported to the police station, where he allegedly made a spontaneous statement about getting his shotgun. The woman refused to identify herself or become involved, and police did not obtain her name or contact information, so her identification was introduced at trial through two officers.

PROCEDURAL HISTORY

A Hudson County grand jury indicted Basil on weapons-possession charges. The trial court denied suppression of his statement, admitted the unidentified woman's statement under the excited-utterance exception, and the jury convicted him of third-degree unlawful possession of a shotgun; he received an extended ten-year sentence with five years of parole ineligibility. The Appellate Division reversed, finding both an unlawful arrest and a Confrontation Clause violation. The Supreme Court reversed the suppression ruling, affirmed by an evenly divided Court the ruling that the woman's statement was testimonial and inadmissible, and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the trial court for proceedings consistent with the opinion, including a new trial because the woman's testimonial statement was inadmissible and the error was not harmless beyond a reasonable doubt.

CASES CITED

- Crawford v. Washington, 541 U.S. 36 (2004)
- Davis v. Washington, 547 U.S. 813 (2006)
- State ex rel. J.A., 195 N.J. 324, 949 A.2d 790 (2008)
- Maryland v. Pringle, 540 U.S. 366 (2003)
- Illinois v. Gates, 462 U.S. 213 (1983)
- Florida v. J.L., 529 U.S. 266 (2000)
- State v. Amelio, 197 N.J. 207, 962 A.2d 498 (2008)
- State v. Stovall, 170 N.J. 346, 788 A.2d 746 (2002)
- Hayes v. Florida, 470 U.S. 811 (1985)

- State v. Lopez, 974 So. 2d 340 (Fla. 2008)
- State v. Macon, 57 N.J. 325, 273 A.2d 1 (1971)
- State v. Branch, 182 N.J. 338, 865 A.2d 673 (2005)
- California v. Green, 399 U.S. 149 (1970)
- State v. Buda, 195 N.J. 278, 949 A.2d 761 (2008)
- State v. Novembrino, 105 N.J. 95, 519 A.2d 820 (1987)
- State v. Elders, 192 N.J. 224, 927 A.2d 1250 (2007)
- State v. Sullivan, 169 N.J. 204, 777 A.2d 60 (2001)
- State v. Evers, 175 N.J. 355, 815 A.2d 432 (2003)
- State v. Madison, 109 N.J. 223, 536 A.2d 254 (1988)
- State v. Delgado, 188 N.J. 48, 902 A.2d 888 (2006)

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