

SUPREME COURT OF ARKANSAS

Blanchett v. State

247 S.W.3d 477, 368 Ark. 492 (2007) · No. No. CR 06-879 · Decided January 18, 2007

SUMMARY

The Supreme Court of Arkansas affirmed Gerard Blanchett's conviction after concluding that an arrest warrant issued based on sworn but unrecorded testimony and other materials satisfied Arkansas Rule of Criminal Procedure 7.1(b). The court held that the warrant complied with the Fourth Amendment and article 2, section 15 of the Arkansas Constitution and therefore did not reach the good-faith exception issue.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Donald L. Corbin
JURISDICTION	Arkansas
DECIDED	January 18, 2007
DOCKET	No. CR 06-879
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment and commitment order entered after appellant entered a conditional guilty plea while reserving the right to challenge the denial of his motion to suppress evidence seized during an arrest on a bench warrant.
STANDARD OF REVIEW	The denial of a motion to suppress is reviewed de novo based on the totality of the circumstances, with respectful consideration given to the trial court's findings. Issues of statutory or rule construction are also reviewed de novo.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Gerard Blanchett v. State of Arkansas

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Fourth Amendment and article 2, section 15 of the Arkansas Constitution require an arrest warrant to be supported by a contemporaneous written affidavit or recording of the testimony establishing probable cause.
2. Whether Arkansas Rule of Criminal Procedure 7.1(b) permits an arrest warrant to issue based on sworn testimony and other information that is not contained in an affidavit or contemporaneous recording.
3. Whether the good-faith exception to the exclusionary rule applied.

HOLDINGS

1. The Fourth Amendment and article 2, section 15 of the Arkansas Constitution require probable cause supported by oath or affirmation but do not prescribe that the supporting basis be contained in a written affidavit or contemporaneously recorded testimony.
2. Arkansas Rule of Criminal Procedure 7.1(b)'s reference to 'other information' permits a judicial officer to issue an arrest warrant based on sworn testimony and other materials presented to the officer, even when the testimony is not contained in an affidavit or contemporaneous recording.

KEY QUOTATIONS

“The Fourth Amendment does not contain any prescription as to the form or manner in which probable cause must be shown; it merely provides that “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation[.]”” (480)

“Based upon the plain reading of Rule 7.1(b), this sworn testimony satisfies the “other information” requirement.” (481)

FACTUAL BACKGROUND

Appellant was stopped for a traffic violation and fled after an officer conducted a pat-down search, during which the officer felt a bulge. Crack cocaine was found in appellant's underwear after he was apprehended. Following the filing of a felony information, an arrest warrant was issued based on the sworn testimony of Investigator William Tapley and other materials presented to the issuing judge. When appellant was arrested on that warrant, officers found additional crack cocaine and drug paraphernalia, which became the subject of the suppression motion.

PROCEDURAL HISTORY

After a felony information was filed, a circuit judge issued an arrest warrant based on sworn testimony and other materials presented to the judge. Evidence was seized during appellant's arrest, and appellant moved to suppress it, arguing that the warrant violated the Fourth Amendment, the Arkansas Constitution, and Arkansas Rule of Criminal Procedure 7.1(b). The Faulkner County Circuit Court denied the motion, appellant entered a conditional guilty plea, and the Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Davis v. State, 351 Ark. 406, 94 S.W.3d 892 (2003)
- McNabb v. State, 367 Ark. 93, 238 S.W.3d 119 (2006)
- Giordenello v. United States, 357 U.S. 480 (1958)
- Sherrick v. Eyman, 389 F.2d 648 (9th Cir. 1968)
- Gillespie v. United States, 368 F.2d 1 (8th Cir. 1966)
- Newman v. State, 327 Ark. 339, 939 S.W.2d 811 (1997)
- Reed v. State, 280 Ark. 316, 657 S.W.2d 557 (1983)
- United States v. Leon, 468 U.S. 897, 104 S. Ct. 3430, 82 L. Ed. 2d 677 (1984)