

SUPREME COURT OF WISCONSIN

State v. Gary Monroe Scull

2015 WI 22 · No. 2011AP2956-CR · Decided March 5, 2015

SUMMARY

The Wisconsin Supreme Court affirmed the court of appeals' decision upholding the denial of Gary Monroe Scull's motion to suppress evidence seized from his home. The court held that, although a warrantless drug-detection dog sniff at the entrance to the home violated the Fourth Amendment under *Florida v. Jardines*, the good-faith exception applied because officers reasonably relied on a search warrant issued after a significant investigation and review by a knowledgeable government attorney. The court therefore concluded that the seized evidence was admissible.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Ann Walsh Bradley, J.; Patience Drake Roggensack, J.; N. Patrick Crooks, J.; Annette Kingsland Ziegler, J.; Michael J. Gableman, J.
JURISDICTION	Wisconsin
DECIDED	March 5, 2015
DOCKET	2011AP2956-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a published Wisconsin Court of Appeals decision affirming the denial of a motion to suppress evidence obtained during a search of the defendant's home.
STANDARD OF REVIEW	The application of constitutional principles and the applicability of the good-faith exception to the exclusionary rule are reviewed independently; factual findings are upheld unless clearly erroneous.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential.
PARTIES	Gary Monroe Scull v. State of Wisconsin

TOPICS

- suppression of evidence
- exclusionary rule
- fourth amendment
- search and seizure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether evidence obtained under a search warrant must be suppressed when the warrant affidavit relied in part on a warrantless dog sniff of the defendant's home that violated the Fourth Amendment.
2. Whether Wisconsin's good-faith exception to the exclusionary rule applies when officers objectively relied on a search warrant issued by a detached and neutral magistrate.
3. Whether the warrant application satisfied Wisconsin's additional Eason requirements of a substantial investigation and review by a knowledgeable police officer or government attorney.

HOLDINGS

1. The good-faith exception to the exclusionary rule applies to evidence obtained in objectively reasonable reliance on a search warrant issued by a detached and neutral magistrate, even when the warrant is ultimately found to be defective.
2. The State established that the warrant was preceded by a substantial investigation and that the supporting affidavit was reviewed by a knowledgeable government attorney.
3. The evidence seized from Scull's home should not be suppressed.

KEY QUOTATIONS

“In sum, the good faith exception to the exclusionary rule applies to evidence obtained in objectively reasonable reliance on a search warrant issued by a detached and neutral magistrate that is ultimately found to be defective.” (¶45)

“Reliance on a warrant is objectively reasonable when: the warrant was preceded by a substantial investigation, the affidavit supporting the warrant was reviewed by either a police officer trained and knowledgeable in the requirements of probable cause and reasonable suspicion, or a knowledgeable government attorney, and a reasonably well-trained officer would not have known that the search was illegal despite the magistrate's authorization.” (¶45)

“Accordingly, we conclude that the evidence should not be suppressed and we affirm the court of appeals.” (¶46)

FACTUAL BACKGROUND

A confidential informant told police that Gary Scull distributed cocaine base and provided an address, vehicle description, and license plate number. Police corroborated the information through probation, Department of Corrections, and Wisconsin Department of Transportation records, then brought a certified drug-detection dog to Scull's home, where the dog alerted at the front door. Officers obtained a warrant after an assistant district attorney reviewed the affidavit, searched the home, and seized cocaine, marijuana, and drug-trafficking paraphernalia.

PROCEDURAL HISTORY

A Milwaukee County circuit court denied Scull's motion to suppress evidence seized under a search warrant and Scull subsequently pleaded guilty to possession with intent to deliver more than forty grams of cocaine and keeping a drug house. The Wisconsin Court of Appeals affirmed, concluding that although the warrantless dog sniff of the home violated the Fourth Amendment under *Florida v. Jardines*, the evidence was admissible under the good-faith exception because officers reasonably relied on the subsequently issued warrant. The Wisconsin Supreme Court granted review and affirmed.

DISPOSITION

affirmed

CASES CITED

- *State v. Eason*, 2001 WI 98, 245 Wis. 2d 206, 629 N.W.2d 625
- *Florida v. Jardines*, 569 U.S. 1, 133 S. Ct. 1409 (2013)
- *State v. Scull*, 2014 WI App 17, 352 Wis. 2d 733, 843 N.W.2d 859
- *State v. Hess*, 2010 WI 82, 327 Wis. 2d 524, 785 N.W.2d 568
- *State v. Miller*, 2002 WI App 150, 256 Wis. 2d 80, 647 N.W.2d 348
- *State v. Arias*, 2008 WI 84, 311 Wis. 2d 358, 752 N.W.2d 748
- *Illinois v. Caballes*, 543 U.S. 405 (2005)
- *United States v. Place*, 462 U.S. 696 (1983)
- *United States v. Leon*, 468 U.S. 897 (1984)
- *State v. Dearborn*, 2010 WI 84, 327 Wis. 2d 252, 786 N.W.2d 97
- *State v. Felix*, 2012 WI 36, 339 Wis. 2d 670, 811 N.W.2d 775
- *State v. Artic*, 2010 WI 83, 327 Wis. 2d 392, 786 N.W.2d 430
- *State v. Knapp*, 2005 WI 127, 285 Wis. 2d 86, 700 N.W.2d 899
- *State v. Noble*, 2002 WI 64, 253 Wis. 2d 206, 646 N.W.2d 38
- *State v. Ward*, 2000 WI 3, 231 Wis. 2d 723, 604 N.W.2d 517
- *State v. McMorris*, 213 Wis. 2d 156, 570 N.W.2d 384 (1997)
- *State v. Whitrock*, 161 Wis. 2d 960, 468 N.W.2d 696 (1991)
- *Conrad v. State*, 63 Wis. 2d 616, 218 N.W.2d 252 (1974)
- *Mapp v. Ohio*, 367 U.S. 643 (1961)
- *Weeks v. United States*, 232 U.S. 383 (1914)
- *Gouled v. United States*, 255 U.S. 298 (1921)
- *Payton v. New York*, 445 U.S. 573 (1980)
- *Holt v. State*, 17 Wis. 2d 468, 117 N.W.2d 626 (1962)

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