1995-96 U.S. SUPREME COURT TERM: CASES AFFECTING CRIMINAL LAW & PROCEDURE

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Arrest, Search and Seizure

Officer's Motive for Stopping Vehicle for Traffic Violation Is Irrelevant As Long As Probable Cause Exists to Believe That Traffic Violation Was Committed

Whren v. United States, 116 S. Ct. 1769, 135 L. Ed. 2d. 89, 59 Crim. L. Rep. 2121 (10 June 1996). Drug officers stopped a vehicle for traffic violations. The Court ruled that stopping a vehicle for a traffic violation, when there is probable cause to believe the traffic violation was committed, does not violate the Fourth Amendment regardless of the officer's motivation for doing so.

The Court also stated that stopping a vehicle for an improper racial purpose must be considered under the Equal Protection Clause of the Fourteenth Amendment, not the Fourth Amendment.

[Notes: (1) This ruling effectively overrules State v. Morocco, 99 N.C. App. 421, 393 S.E.2d 545 (1990), which had ruled that the test for determining whether a stop is pretextual is what a reasonable officer *would* do rather what an officer legally *could* do. (2) The Court did not discuss whether its ruling would also apply when an officer has only reasonable suspicion to stop a vehicle for a traffic violation (although it likely would so rule). Of course, the court's ruling in no way changes Fourth Amendment law that an officer may make an investigative stop of a vehicle based on reasonable suspicion; see, for example, Alabama v. White, 496 U.S. 325, 110 S. Ct. 2412, 110 L. Ed. 2d 301 (1990); United States v. Brignoni-Ponce, 422 U.S. 873, 95 S. Ct. 2574, 45 L. Ed. 2d 607 (1975).]

Court Reaffirms Rulings That Officer Who Has Probable Cause to Search Readily Mobile Vehicle for Contraband May Conduct Search Without Search Warrant

Pennsylvania v. Labron, 116 S. Ct. 2485, 135 L. Ed. 2d. 1031, 59 Crim. L. Rep. 3090 (1 July 1996). The court, per curiam, reaffirmed its prior rulings [see, e.g., California v. Carney, 471 U.S. 386 (1985)] that an officer who has probable cause to search a readily mobile vehicle for contraband may conduct a search of the vehicle without a search warrant. A showing of exigent circumstances to conduct such a warrantless vehicle search is unnecessary.

Discovery

Prosecutor's Nondisclosure of Polygraph Evidence Showing Deception by State's Witness Did Not Violate Due Process, Based on the Facts in this Case

Wood v. Bartholomew, 116 S.Ct. 7, 133 L.Ed.2d 1, 58 Crim. L. Rep. 3035 (10 October 1995). The defendant was convicted of aggravated first-degree murder in the state of Washington. The state failed to disclose to the defendant that during a polygraph examination of one of its key witnesses, two responses by the witness to questions about the murder indicated deception. The defendant asserted that the failure to disclose was error. Under Washington state law polygraph evidence was inadmissible as substantive evidence as well as for impeachment. The Court, after reviewing the facts in this case, ruled that disclosure of the polygraph evidence would not have created a "reasonable probability" that the result at trial would have been different. Kyles v. Whitley, 514 U.S. ___, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995). The Court rejected the defendant's argument that disclosure of this evidence might have led defense counsel to conduct additional discovery potentially producing other evidence that could have been used at trial.

Miscellaneous

Appellate Court Must Exercise De Novo Review of Trial Court's Determination of Whether Reasonable Suspicion or Probable Cause Existed

Ornelas v. United States, 116 S. Ct. 1657, 134 L. Ed. 2d. 911, 59 Crim. L. Rep. 2100 (28 May 1996). The court ruled that an appellate court must exercise de novo review of a trial court's determination of whether reasonable suspicion or probable cause existed. However, the court noted, an appellate court should review findings of historical fact (that is, the facts underlying the issue of the existence of reasonable suspicion or probable cause) only for clear error and should give due weight to inferences drawn from those facts by trial courts and law enforcement officers.

State Court's Ruling on Whether Defendant Was in "Custody" under *Miranda* Is Not Entitled to Presumption of Correctness under Federal Habeas Corpus Review

Thompson v. Keohane, 116 S.Ct. 457, 133 L.Ed.2d. 383, 58 Crim. L. Rep. 2022 (29 November 1995). The court ruled that a state court's ruling on whether a defendant was in "custody" under *Miranda* is not entitled to a presumption of correctness under federal habeas corpus review. Such a ruling resolves mixed questions of law and fact and therefore warrants independent review by a federal habeas court.

Oklahoma Statute Requiring Defendant to Prove Incompetence to Stand Trial by Clear and Convincing Evidence Is Unconstitutional

Cooper v. Oklahoma, 116 S. Ct. 1373, 134 L. Ed. 2d. 498, 59 Crim. L. Rep. 2012 (16 April 1996). The Court ruled that an Oklahoma statute requiring a defendant to prove his or her incompetence to stand trial by clear and convincing evidence was unconstitutional. The highest standard of proof that may be placed on a defendant to prove incompetence to stand trial is by the preponderance of evidence. See Medina v. California, 505 U.S. 437, 112 S. Ct. 2572, 120 L. Ed. 2d 353 (1992).

[Note: In North Carolina, the defendant has the burden of proof on the issue of incompetence; see State v. Gates, 65 N.C. App. 277, 309 S.E.2d 498 (1983). Although appellate cases have not set out the standard of proof, it likely would be by the preponderance of evidence.]

In Rem Civil Forfeitures Are Neither "Punishment" Nor Criminal For Purposes of Double Jeopardy Clause

United States v. Ursery, 116 S. Ct. 2135, 135 L. Ed. 2d. 549, 59 Crim. L. Rep. 2191 (24 June 1996). The Court ruled that in rem civil forfeitures are neither punishment nor criminal for purposes of the Double Jeopardy Clause. Thus, a criminal conviction and an in rem civil forfeiture may occur without violating the Double Jeopardy Clause.

No Fifth or Fourteenth Amendment Violation When State Forfeiture Statute Did Not Provide Innocent Owner Defense to Forfeiture of Car

Bennis v. Michigan, 116 S. Ct. 994, 134 L. Ed. 2d. 68, 58 Crim. L. Rep. 2060 (4 March 1996). The court ruled that a Michigan state forfeiture statute that permitted the forfeiture of a vehicle as a public nuisance did not violate the Due Process Clause of the Fourteenth Amendment or the Takings Clause of the Fifth Amendment when it did not permit an innocent owner's defense to the forfeiture.

Convictions for Both Federal Continuing Criminal Enterprise Offense and Lesser-Included Conspiracy Offense Are Not Permitted

Rutledge v. United States, 116 S. Ct. 1241, 134 L. Ed. 2d. 419, 58 Crim. L. Rep. 2076 (27 March 1996). The court ruled that convictions for both federal continuing criminal enterprise offense and lesser-included conspiracy offense are not permitted. Congress did not intend to impose punishments for both offenses.

Federal Criminal Defendant Is Not Entitled to Discovery on Claim that Defendant Was Singled Out for Prosecution on Basis of Race Unless Defendant Makes Threshold Showing that Government Declined to Prosecute Similarly Situated Suspects of Other Races

United States v. Armstrong, 116 S. Ct. 1480, 134 L. Ed. 2d. 687, 59 Crim. L. Rep. 2090 (13 May 1996). the court ruled that a federal criminal defendant is not entitled to discovery on a claim that the defendant was singled out for prosecution on the basis of his or her race unless the defendant makes a threshold showing that the government declined to prosecute similarly situated suspects of other races

Montana Statute that Prohibits Voluntary Intoxication from Being Considered in Determining Existence of Mental State that Is an Element of a Criminal Offense Is Constitutional

Montana v. Egelhoff, 116 S. Ct. 2013, 135 L. Ed. 2d. 361, 59 Crim. L. Rep. 2153 (13 June 1996). A Montana statute that prohibits voluntary intoxication from being considered in determining the existence of a mental state that is an element of a criminal offense is constitutional.

Defendant Who Is Prosecuted in Single Proceeding for Multiple Petty Offenses Does Not Have Sixth Amendment Right to Jury Trial Even Though Aggregate Potential Prison Terms Exceed Six Months

Lewis v. United States, 116 S. Ct. 2163, 135 L. Ed. 2d. 590, 59 Crim. L. Rep. 2206 (24 June 1996). The Court ruled that a defendant who is prosecuted in single proceeding for multiple petty offenses (offenses punishable by six months or less) does not have a Sixth Amendment right to a jury trial even though the aggregate potential prison terms for the multiple offenses exceed six months. The Court distinguished Codispoti v. Pennsylvania, 418 U.S. 506 (1974) (multiple convictions of criminal contempt at single proceeding, that resulted in prison sentence exceeding six months, required jury trial under Sixth Amendment) by noting that (1) the legislature in *Codispoti* had not specified a maximum penalty for criminal contempt; and (2) there is a special concern for the right to a jury trial when the judge is involved in a heated matter such as criminal contempt. [Note: G.S. 5A-12 specifies a maximum imprisonment of thirty days for most kinds of criminal contempt.]

Federal District Court Judge's Injunction Mandating Detailed, Systemwide Changes in State Prison System's Law Libraries and Legal Assistance Programs Was Not Supported By Evidence

Lewis v. Casey, 116 S. Ct. 2174, 135 L. Ed. 2d. 606, 59 Crim. L. Rep. 2212 (24 June 1996). The Court ruled that a federal district court judge's injunction mandating detailed, systemwide changes in the Arizona state prison system's law libraries and legal assistance programs was not supported by the evidence presented to the judge. The plaintiffs failed to show widespread actual injury based on alleged unconstitutional acts by prison officials. The court also rejected statements in Bounds v. Smith, 430 U.S. 817 (1977), suggesting that prison authorities must enable prisoners to discover grievances and to litigate effectively once in court. *Bounds* only requires that prisoners be provided with tools to attack their sentences, directly or collaterally, and to challenge the conditions of their confinement.

Miscellaneous Federal Habeas Rulings

Court Upholds Constitutionality of Specified Provisions of New Federal Habeas Corpus Legislation

Felker v. Turpin, 116 S. Ct. 2333, 135 L. Ed. 2d. 827, 59 Crim. L. Rep. 2237 (28 June 1996). The Court ruled: (1) new 1996 federal legislation restricting federal habeas corpus litigation did not deprive the Court of jurisdiction to consider original federal habeas corpus petitions filed with the Court; and (2) the requirement that a federal habeas corpus petitioner must obtain leave from the court of appeals before filing a second habeas petition in district court did not violate Article I, § 9, Clause 2 of the United States Constitution (privilege of writ of habeas corpus shall not be suspended).

Miscellaneous Habeas Corpus Rulings

Gray v. Netherland, 116 S. Ct. 2074, 135 L. Ed. 2d. 457, 59 Crim. L. Rep. 2176 (20 June 1996). The Court ruled: (1) prisoner's federal habeas claim based on *Brady v. Maryland* was procedurally barred because of his failure to raise it in state court; (2) claim based on the state's alleged misrepresentation of evidence it would introduce at capital sentencing hearing was remanded to the federal court of appeals to determine whether the issue was properly raised; (3) claim alleging state had duty to notify defendant of evidence it would introduce at capital sentencing hearing would require the adoption of new constitutional rule, and therefore was not cognizable in federal habeas action under Teague v. Lane, 489 U.S. 288 (1989) or its exceptions.

Federal Court May Not Dismiss First Federal Habeas Petition under Certain Circumstances

Lonchar v. Thomas, 116 S. Ct. 1293, 134 L. Ed. 2d. 440, 59 Crim. L. Rep. 2002 (1 April 1996). A federal court may not dismiss a first federal habeas petition for general "equitable" reasons beyond those embodied in relevant statutes, federal habeas corpus rules, and prior precedents.

Civil Rights Defendant's Immediate Appeal of Unfavorable Qualified-Immunity Ruling on Motion to Dismiss Does Not Deprive the Court of Appeals of Jurisdiction Over a Second Appeal, Also Based on Qualified Immunity, Immediately Following Denial of Summary Judgment

Behrens v. Pelletier, 116 S. Ct. 834, 133 L. Ed. 2d. 773, 58 Crim. L. Rep. 2046 (21 February 1996). Civil rights defendant's immediate appeal of unfavorable qualified-immunity ruling on motion to dismiss does not deprive the court of appeals of jurisdiction over a second appeal, also based on qualified immunity, immediately following denial of summary judgment.