

**Case No. 23-001
Supreme Court**

STATE OF WISCONSIN v. REDD

Parties: **Appellant – State of Wisconsin
Respondent – Robert Redd**

Issues:

1. Can a sufficient intervening event break the causal chain between the unlawful stop and the discovery of drug-related evidence on a defendant?
2. Is a valid arrest warrant for a traffic violation a sufficient intervening event to break the causal chain?

Facts:

This case began with an anonymous tip. In August of 2019, someone called the Madison Police Department drug tip-line to report “narcotics activity” at a particular residence. Officer Andrew Taylor was assigned to investigate the anonymous tip.

On September 28, 2019, Officer Taylor led a team of Madison police officers in surveilling the house that was suspected of being a drug house. That surveillance was not continuous, and instead, intermittent throughout the week.

There was enough surveillance conducted during that week to raise Officer Taylor’s suspicion that the occupants were dealing drugs. Officer Taylor and his colleagues observed visitors who left a few minutes after arriving at the house. These visits were sufficiently frequent enough to raise Officer Taylor’s suspicion that the occupants were dealing drugs.

Police observed Robert Redd leaving the house, although they did not observe him entering the home, and heading to a nearby convenience store.

In the store’s parking lot, Officer Taylor stopped Mr. Redd, identified himself as a police officer, and asked Mr. Redd what he was doing at the home under surveillance. As part of the stop, Officer Taylor asked Mr. Redd for his identification and Mr. Redd produced a Wisconsin driver’s license. Officer Taylor relayed that information to a police dispatcher, who advised Officer Taylor that Mr. Redd had an outstanding arrest warrant for a traffic violation.

As a result of that violation, Officer Taylor arrested Mr. Redd and conducted a search incident to that arrest. During that search, Officer Taylor discovered that Mr. Redd was in possession of drug paraphernalia and methamphetamine.

The State of Wisconsin charged Mr. Redd with unlawful possession of methamphetamine and drug paraphernalia. Mr. Redd moved to suppress the evidence relating to the charge, arguing that the evidence was inadmissible because it was derived from an unlawful investigatory stop.

At the suppression hearing, the prosecutor conceded that Officer Taylor did not have reasonable suspicion for the stop but argued that the evidence should not be suppressed because the existence of a valid arrest warrant attenuated the connection between the unlawful stop and the discovery of the contraband.

The circuit court agreed with the State of Wisconsin and admitted the evidence supporting Mr. Redd's arrest. The circuit court found that the short time between the illegal stop and the search weighed in favor of suppressing the evidence, but that two countervailing considerations made it admissible.

First, the circuit court considered the presence of a valid arrest warrant to be an "extraordinary intervening circumstance." Second, the court stressed the absence of flagrant misconduct by Officer Taylor, who was conducting a legitimate investigation of a suspected drug house.

Mr. Redd conditionally pled guilty to reduced charges of attempted possession of a controlled substance and possession of drug paraphernalia, but reserved his right to appeal the circuit court's denial of the suppression motion.

On appeal, the Wisconsin Court of Appeals reversed the circuit court's decision, finding that the evidence was inadmissible because only "a voluntary act of a defendant's free will (as in a confession or consent to search)" sufficiently breaks the connection between an illegal search and the discovery of evidence. Because Officer Taylor's discovery of a valid arrest warrant did not fit this description, the Wisconsin Court of Appeals ordered the evidence suppressed.

The State of Wisconsin petitioned the Wisconsin Supreme Court requesting that the Court of Appeals decision be overturned.

Authorities:

The following is a brief summary of some things you should think about and keep in mind when you read the cases and as you prepare your briefs and arguments. You are not limited to these points. Instead, they are just good starter questions to think about. You will also notice some cases are available on the YIG website. These cases represent some of the materials you can use to begin your research. Other case citations are below but are not included in this packet—you will need to seek out these case materials to complete your briefs and oral arguments (denoted by **)

Summary:

Should the evidence from the search be excluded as fruit of the poisonous tree?

Is the arrest warrant for a traffic violation a sufficient intervening break to overcome the illegal stop?

Does the fact that the arrest warrant was for a traffic violation, instead of a more serious crime, change that analysis?

Cases and Related Materials:

- United States v. Gaines, 449 F. 2d 143 (2nd Cir. 2012)
- Utah v. Strieff, 136 S. Ct. 2056 (2016) –
- Collins v. Virginia, 584 U.S. ____ (2018)
- **California v. Ciraolo, 476 U.S. 207 (1986)
- **U.S. v. Myers, 46 F.3d 668 (7th Cir. 1995)
- **U.S. v. Pinson, 24 F3d. 1056 (8th Cir.1995)
- **Dow Chemical Co. v. U.S., 476 U.S. 227 (1986)
- **U.S. v. Dunn, 480 U.S. 294 (1987)
- **US Constitution, Amendment IV