

Utah v. Strieff

(2016) __ U.S. __ [2016 WL 3369419]

Issue

If officers detain a suspect illegally but then learn that he is wanted on an arrest warrant, must a court suppress any evidence discovered during a search incident to the warrant arrest?

Facts

An officer in Salt Lake City detained Strieff after seeing him walk out of a house that was under surveillance for suspected narcotics activity. In the course of the detention, the officer was notified that Strieff was wanted on a traffic-related arrest warrant. So he searched him incident to the arrest and discovered a baggie of methamphetamine and drug paraphernalia. Strieff filed a motion to suppress the evidence on grounds that the officer lacked reasonable suspicion to detain him. Although there were, in fact, insufficient grounds to detain Strieff, the prosecution argued that the evidence was nevertheless admissible because the link between the illegal detention and the discovery of the evidence was sufficiently attenuated by the discovery of the arrest warrant. The trial court agreed, and Strieff eventually appealed to the Supreme Court.

Discussion

Under the so-called “Fruit of the Poisonous Tree Rule,” evidence that would otherwise be suppressed may be admissible if prosecutors can prove that the link between its discovery and the officer’s misconduct was sufficiently weakened or attenuated by the occurrence of an independent intervening act. This rule is based on the principle that “the chain of causation proceeding from the unlawful conduct” may become sufficiently weak so as “to remove the ‘taint’ imposed upon that evidence by the original illegality.”¹ How do the courts determine whether such a break in the chain of causation has occurred? As a practical matter, it requires three things:

- (1) **Derivative evidence:** The “fruit of the poisonous tree” exception applies only to evidence that was “derivative,” which essentially means that the illegal search or seizure generated an act, condition, situation, or information that had the potential to—but did not inevitably—result in the discovery of the evidence.² In contrast, evidence is deemed “primary” if there was a swift and predictable progression from the constitutional violation to the discovery of the evidence.
- (2) **Officer’s misconduct not flagrant:** Evidence will almost always be deemed tainted if the officers intentionally or recklessly disregarded the law for the purpose of obtaining it.³ As the Court of Appeal observed, “flagrancy and

¹ *United States v. Crews* (1980) 445 U.S. 463, 471.

² See *Murray v. United States* (1988) 487 U.S. 533, 536-37 [evidence is “derivative” if it was “the product of the primary evidence, or [was] otherwise acquired as an indirect result of the unlawful search”]; *New York v. Harris* (1990) 495 U.S. 14, 19 [“the indirect fruits of an illegal search or arrest should be suppressed when they bear a sufficiently close relationship to the underlying illegality”]; emphasis added].

³ See *Kaupp v. Texas* (2003) 538 U.S. 626, 633 [“Relevant considerations include ... particularly, the purpose and flagrancy of the official misconduct.”]; *Brown v. Illinois* (1975) 422 U.S. 590, 604

purposefulness of police misconduct, is considered the most important [factor] because it is tied directly to the rationale underlying the exclusionary rule, deterrence of police misconduct.”⁴

- (3) **Independent intervening act:** If a search was not flagrantly illegal, the resulting derivative evidence will usually be admissible if something happened between the occurrence of the officer’s misconduct and the discovery of the evidence that constituted an independent intervening act.⁵ As the Court in *Strieff* explained, “Evidence is admissible when the connection between unconstitutional police conduct and the evidence is remote or has been interrupted by some intervening circumstance”

In *Strieff*, it was apparent that the first two requirements were met. First, the evidence was “derivative” because its discovery did not result from a swift and predictable progression from the illegal detention and the discovery of the drugs. Second, although the prosecution conceded that the officer lacked reasonable suspicion to detain Strieff, this misconduct was not flagrant because the officer was aware of some circumstances that tended to—although they ultimately failed—to establish reasonable suspicion. As the Court pointed out, “[T]here is no evidence that [the officer’s] illegal stop reflected flagrantly unlawful police misconduct.”

The question, then, was whether the officer’s discovery of the outstanding arrest warrant constituted an independent intervening act. It did, said the Court, pointing out that “the warrant was valid, it predated [the officer’s] investigation, and it was entirely unconnected with the stop.” Accordingly, the Court ruled that that “discovery of that warrant broke the causal chain between the unconstitutional stop and the discovery of evidence by compelling [the officer] to arrest Strieff.”⁶ POV

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[“The illegality here had the quality of purposefulness.”]; *United States v. Leon* (1984) 468 U.S. 897, 911 [“[A]n assessment of the flagrancy of the police misconduct constitutes an important step in the calculus.”].

⁴ *People v. Bates* (2013) 222 Cal.App.4th 60, 70.

⁵ See *People v. Sims* (1993) 5 Cal.4th 405, 445 [“The degree of attenuation that suffices to dissipate the taint requires at least an intervening independent act by the defendant or a third party to break the causal chain in such a way that the [evidence] is not in fact obtained by exploitation of the illegality.”]; *In re Richard G.* (2009) 173 Cal.App.4th 1252, 1262 [“The ‘fruit of the poisonous tree’ theory contemplates evidence being discovered along a causal ‘time line’ or ‘road,’ beginning at the ‘poison’ of a Fourth Amendment violation, and ending at the ‘fruit’ of newly discovered information, witnesses, or physical evidence. When the time line becomes too attenuated, or the causal ‘road’ is blocked by an intervening, independent act, the ‘poison’ is declared purged and its evidentiary ‘fruit,’ is admissible.”].

⁶ Also see *People v. Brendlin* (2008) 45 Cal.4th 262, 272 [“[T]he outstanding warrant sufficiently attenuated the connection between the unlawful traffic stop and the subsequent discovery of the drug paraphernalia.”].