

No. 122761

IN THE

SUPREME COURT OF ILLINOIS

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|----------------------------------|---|--|
| PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from the Appellate Court of Illinois, No. 3-15-0264. |
| |) | |
| Plaintiff-Appellee, |) | There on appeal from the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, No. 09-CF-1345. |
| -vs- |) | |
| |) | |
| JORGE MANZO, JR. |) | Honorable Edward A. Burmila, Jr., |
| |) | Judge Presiding. |
| Defendant-Appellant |) | |

ADDITIONAL AUTHORITY

725 ILCS 5/114-12

E-FILED
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Carolyn Taft Grosboll
SUPREME COURT CLERK

5/114-12. Motion to Suppress Evidence Illegally Seized, IL ST CH 725 § 5/114-12

KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Validity Called into Doubt by People v. Holmes, Ill.App. 1 Dist., Nov. 25, 2015

West's Smith-Hurd Illinois Compiled Statutes Annotated
 Chapter 725. Criminal Procedure
 Act 5. Code of Criminal Procedure of 1963 (Refs & Annos)
 Title V. Proceedings Prior to Trial
 Article 114. Pre-Trial Motions (Refs & Annos)

725 ILCS 5/114-12

Formerly cited as IL ST CH 38 ¶114-12

5/114-12. Motion to Suppress Evidence Illegally Seized

Effective: January 25, 2013

Currentness

§ 114-12. Motion to Suppress Evidence Illegally Seized.

(a) A defendant aggrieved by an unlawful search and seizure may move the court for the return of property and to suppress as evidence anything so obtained on the ground that:

(1) The search and seizure without a warrant was illegal; or

(2) The search and seizure with a warrant was illegal because the warrant is insufficient on its face; the evidence seized is not that described in the warrant; there was not probable cause for the issuance of the warrant; or, the warrant was illegally executed.

(b) The motion shall be in writing and state facts showing wherein the search and seizure were unlawful. The judge shall receive evidence on any issue of fact necessary to determine the motion and the burden of proving that the search and seizure were unlawful shall be on the defendant. If the motion is granted the property shall be restored, unless otherwise subject to lawful detention, and it shall not be admissible in evidence against the movant at any trial.

(1) If a defendant seeks to suppress evidence because of the conduct of a peace officer in obtaining the evidence, the State may urge that the peace officer's conduct was taken in a reasonable and objective good faith belief that the conduct was proper and that the evidence discovered should not be suppressed if otherwise admissible. The court shall not suppress evidence which is otherwise admissible in a criminal proceeding if the court determines that the evidence was seized by a peace officer who acted in good faith.

(2) "Good faith" means whenever a peace officer obtains evidence:

(i) pursuant to a search or an arrest warrant obtained from a neutral and detached judge, which warrant is free from obvious defects other than non-deliberate errors in preparation and contains no material misrepresentation by any agent of the State, and the officer reasonably believed the warrant to be valid; or

(ii) pursuant to a warrantless search incident to an arrest for violation of a statute or local ordinance which is later declared unconstitutional or otherwise invalidated.

(3) This amendatory Act of 1987 shall not be construed to limit the enforcement of any appropriate civil remedy or criminal sanction in actions pursuant to other provisions of law against any individual or government entity found to have conducted an unreasonable search or seizure.

(4) This amendatory Act of 1987 does not apply to unlawful electronic eavesdropping or wiretapping.

(c) The motion shall be made before trial unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion. If the motion is made during trial, and the court determines that the motion is not untimely, and the court conducts a hearing on the merits and enters an order suppressing the evidence, the court shall terminate the trial with respect to every defendant who was a party to the hearing and who was within the scope of the order of suppression, without further proceedings, unless the State files a written notice that there will be no interlocutory appeal from such order of suppression. In the event of such termination, the court shall proceed with the trial of other defendants not thus affected. Such termination of trial shall be proper and shall not bar subsequent prosecution of the identical charges and defendants; however, if after such termination the State fails to prosecute the interlocutory appeal until a determination of the merits of the appeal by the reviewing court, the termination shall be improper within the meaning of subparagraph (a) (3) of Section 3-4 of the Criminal Code of 2012¹ and subsequent prosecution of such defendants upon such charges shall be barred.

(d) The motion shall be made only before a court with jurisdiction to try the offense.

(e) The order or judgment granting or denying the motion shall state the findings of facts and conclusions of law upon which the order or judgment is based.

Credits

Laws 1963, p. 2836, § 114-12, eff. Jan. 1, 1964. Amended by Laws 1965, p. 383, § 1, eff. July 1, 1965; Laws 1967, p. 2826, § 1, eff. Aug. 11, 1967; Laws 1967, p. 2833, § 1, eff. Aug. 11, 1967; Laws 1968, p. 549, § 1, eff. July 1, 1969; P.A. 76-1096, § 1, eff. Aug. 28, 1969; P.A. 79-1360, § 26, eff. Oct. 1, 1976; P.A. 85-388, § 1, eff. Sept. 14, 1987; P.A. 97-1150, § 635, eff. Jan. 25, 2013.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 114-12.

Notes of Decisions (1681)

Footnotes

¹ 720 ILCS 5/3-4.

725 I.L.C.S. 5/114-12, IL ST CH 725 § 5/114-12

Current through P.A. 100-647 of the 2018 Reg. Sess.