



Supreme Court of the United States

Joseph Lee Byron v. The United States of America

By Evan O'Brien

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 07-44888

JOSEPH LEE BYRON

Plaintiff-Appellee

v.

UNITED STATES OF AMERICA

Defendant-Appellant

PRIOR HISTORY: Appeal from the United States District Court for the Southern District of Mississippi Vicksburg

Before JONES, *Chief Judge*, KING, JOLLY, DAVIS, SMITH, BARKSDALE, WIENER, GARZA, BENAVIDES, STEWART, DENNIS, CLEMENT, PRADO, OWEN, ELROD, SOUTHWICK, and HAYNES, *Circuit Judges*.

OPINION

LESLIE H. SOUTHWICK, *Circuit Judge*:

This appeal comes to us from the United States District Court for the Southern District of Mississippi. It presents the question of whether the good-faith exception to the exclusionary rule applies in the Fourth Amendment context when the local

police execute an unreasonable search because of a clerical error by the police department in the neighboring county. Should the evidence discovered as a result of the unreasonable search be suppressed in court, pursuant to the exclusionary rule first articulated by the Supreme Court in *Weeks v. United States* (1914) and applied to the states via the Fourteenth Amendment in *Mapp v. Ohio* (1961), or does the good faith error committed by officers in another jurisdiction permit an exception to the rule, and thus not require the exclusion of incriminating evidence?

BACKGROUND

Petitioner in this case, Joseph Lee Byron, was spotted by police officers driving his pick-up truck on the state highway in Hancock County, Mississippi on the night of June 14, 2002. Officers within that jurisdiction, Mathias Sundquist and Roy Murrell, recognized Byron as he drove by them while they waited by the side of the road looking for motorists violating the state speed limit. Officers do not allege that Byron was speeding at the time of his arrest, and he was not directed to pull over to the side of the road because of any perceived violation of the rules of the road.

Rather, Officer Sundquist had known Byron from a previous criminal incident and paged his local dispatch to inquire if there was an outstanding warrant for Byron's arrest. Sundquist was informed by his local precinct that there was no such warrant outstanding in Hancock County. He then proceeded to contact the information desk at the Sheriff's Department in Harrison County, which at the time was manned by a non-uniformed clerk, to make the same inquiries. The clerk reported to the officer that, indeed, there was an outstanding warrant for Byron's arrest for alleged criminal activity committed in Harrison County.

After receiving this information from the Harrison County Sheriff's Department, Officers Sundquist and Murrell engaged Byron's vehicle on the state highway, and ordered him to pull over, which Byron did. They instructed Byron to leave his vehicle. Officer Sundquist applied handcuffs to Byron and

informed him that he was under arrest. He read Byron his *Miranda* rights in full. Meanwhile, Officer Murrell searched Byron's pick-up truck. In the back seat, Murrell discovered five sawed-off shotguns, two semi-automatic assault weapons, and several rounds of ammunition hidden under a wool blanket. In the trunk of the car, Murrell discovered a handbag stuffed with jewelry, a duffel bag filled with U.S. currency totaling \$3400, as well as prescription drugs. Sundquist and Murrell impounded Byron's pick-up truck and brought him into custody at the Harrison County's Sheriff's Department.

When the three men arrived at the Sheriff's Department in Harrison County, however, the two officers were informed by the clerk at the dispatch that the warrant for Byron's arrest in Harrison County had actually expired ten days earlier, and as such, was no longer enforceable. When Officer Sundquist had contacted the clerk an hour earlier, the clerk simply had not thoroughly searched the Department's database. She had only checked to see that there had been an arrest warrant, without confirming that the warrant was still in effect.

A subsequent investigation traced the stolen goods found in Byron's trunk to Ms. Leigh Darcy, whose address was listed in a rural part of Hancock County. Pursuing this lead, investigators visited Ms. Darcy's home and found it vandalized but empty. Her drawers were left open, and her medicine cabinet had been emptied. Two hundred feet into the woods near her premises, Ms. Darcy's body was discovered with a gunshot wound to the chest. There were no witnesses to the incident, nor any incriminating evidence left at the scene.

Shortly thereafter, Joseph Lee Byron was indicted by a federal grand jury for drug possession in violation of 33 U.S.C. § 883(i), possession of illegal firearms in violation of the terms of his parole and 63 U.S.C. § 45(a), robbery in the first degree, and for the murder of Leigh Darcy. Byron filed a motion with the District Court for the Southern District of Mississippi to suppress the evidence obtained in the search of his vehicle by Officers Sundquist and Murrell, which the government planned to admit at his trial hoping to tie Byron to Darcy's murder. The District judge denied the motion, and found that the

clerical error committed by the clerk at Harrison County was encompassed by the good-faith exception announced by the Supreme Court in *United States v. Leon* (1984) and extended by the high Court in *Arizona v. Evans* (1995). He was found guilty by a jury on all counts, and was sentenced to life in prison. Byron appealed to this Court, which has jurisdiction over the Federal District Courts in the state of Mississippi.

A divided three-judge panel, composed of Judges KING, JOLLY, and STEWART reversed the District Court, and held that the exclusionary rule did apply to Byron's circumstances and that there was no good-faith exception for police error, even when committed by someone from a different police department; thus, all evidence found in Byron's car could not be admitted in his trial. The panel remanded the case to the District Court and ordered a new trial for Byron.

The U.S. government petitioned the full Court to vacate the panel's decision and review the District Court's judgment *en banc*, a step that we take only in rare circumstances. A majority of this Court having agreed to do so, we vacated the panel's ruling, and after re-hearing *en banc*, we now affirm the judgment of the District Court. We hold that the evidence obtained from the June 14, 2002 search was properly admitted as evidence in the District Court. Accordingly, we reinstate all of Byron's convictions.

RELEVANT PRECEDENT

The Fourth Amendment to the federal Constitution provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The government has not alleged that the police had probable cause to search Byron's person and his vehicle. The sole basis for their search was the faulty information they received about an outstanding warrant. Thus, there having neither been a warrant nor probable cause, the search was unconstitutional.

Our precedents make clear, however, that an unconstitutional search does not automatically require the suppression of evidence gleaned from said search. As the Supreme Court has stated, "the question [of] whether the Fourth Amendment rights of the party seeking to invoke the [exclusionary] rule were violated by police" is a separate inquiry from whether this Court should apply the rule. *United States v. Leon* (1984); *Illinois v. Gates* (1983). The Supreme Court has left us ample guidance as to the instances in which there are 1) good-faith exceptions to the exclusionary rule and 2) exceptions to the rule that arise when its application would not serve its original deterrent purpose.

APPLYING THE EXCEPTIONS

From the time of the founding until the early twentieth century, the traditional remedy for Fourth Amendment violations were civil trespass suits brought against the police. That is, when someone's "person, houses, papers, and effects" were searched by the police without warrant, the actions of the police officer were no different from those of a common trespasser. Even though the evidence seized or examined could be used in court, the person whose rights were violated could still bring a civil suit, even while incarcerated.

The Supreme Court first announced nearly 100 years ago, in *Weeks v. United States* (1914) that the evidence seized from an unconstitutional search or seizure would be presumptively excluded from criminal proceedings brought by the state. The decision was unanimous. The purpose of the exclusionary rule, as it became known, was principally to "deter police misconduct," as the Supreme Court explained in *Illinois v. Krull* (1987), since civil trespass suits were both difficult to bring against the police and did not, in the Court's view, effectively serve to deter police misconduct.

GOOD FAITH

After the Court incorporated the exclusionary rule to bind state courts in *Mapp v. Ohio* (1961), it also began to announce

exceptions to the rule. In *Leon*, the Court declared that when the police relied on a warrant that turned out not to have rested on probable cause, evidence would not be excluded. In that set of circumstances, the judge had incorrectly found probable cause for search where none existed. This, of course, was not the fault of the police, and the Supreme Court announced that there was no benefit to punishing the police for an error committed by the judge.

Similarly, in *Arizona v. Evans* (1995), the Supreme Court extended the good-faith exception to encompass errors made not only by judges and magistrates (*Leon*), but also by court employees. In *Evans*, the Supreme Court applied the same principle that application of the exclusionary rule would make little sense where the police relied on the information supplied to them by non-judicial officers of the courts. This logic is properly extended to the present context, where the person responsible for supplying the faulty information was not a police officer either, but a civil employee of the police department. Our historical review makes clear that the exclusionary rule was not designed by the Supreme Court to deter the carelessness of clerks. That the clerk was not a uniformed officer and also worked in a different police jurisdiction in this set of circumstances supports our conclusion that the officers did not misbehave within the historical meaning of the exclusionary rule. If the clerk had been a full-fledged member of the police force and/or had worked in the same department as Officers Sundquist and Murrell, our analysis may well have been different.

We believe that this case is directly controlled by *Leon* and *Evans* because the person whose carelessness caused the illegal search did not belong to the Hancock County Police Department. The fault lay not with Officers Sundquist and Murrell, nor with anyone in their chain of command. Moreover, the person who furnished them the faulty information was not a police officer, but a non-uniformed clerk, who, as far as the record shows, had no intent to violate Byron's rights. His blunder seems to have been carelessness, plain and simple.

We find unpersuasive the arguments advanced by the dissent and by three concurring judges with respect to the applicability of *Evans*. While it is true that the Supreme Court did not extend their holding in that case to cover non-uniformed police employees, this is unsurprising, considering that they had no reason to reach the question in that case, and that they did not expressly reach the question should not deter us from doing so today, consistent with other past Supreme Court precedent.

At the end of the day, a majority of this Court supports the proposition that *Arizona v. Evans* justifies the good-faith exception in this case, notwithstanding the objection of the dissent and the concurrence.

DETERRENT VALUE

That the record shows that Officers Sundquist and Murrell acted in good faith does not settle the matter, however. Carelessness, even by a non-uniformed clerk in a neighboring county, does not automatically discharge the good-faith exception. Indeed, "misconduct," within the historical meaning of the exclusionary rule, comprises a broad category of police action that includes both intentional and unintentional violations of constitutional rights. The second step in our analysis is the following: having established that the officers acted in good faith, will the benefits of applying of the exclusionary rule in these circumstances outweigh the costs or vice versa?

The Supreme Court has determined that the benefits gained from the exclusionary rule are an "appreciable deterrence" in police misbehavior. *United States v. Janis* (1976). Though a tempting remedy for this instance, simply punishing the police for carelessness in one instance has never been held by the Supreme Court to be a sufficient reason to suppress evidence. The "benefits" of deterrence would not extend beyond Byron's case. On the other hand, the precedent that this ruling would set would have a dynamic effect on the criminal justice system within this circuit. Not only would the jury be deprived the opportunity to determine the veracity of the evidence produced by the state against Byron in the instant case, but the state

would also be deprived of presenting evidence against countless other defendants in the future, many of whom may well be guilty of the crimes of which they are accused. We cannot turn a blind eye to this legitimate law enforcement concern.

This analysis leads us to the conclusion that the costs of suppression and the precedent this case would set—placing unnecessary obstacles in the way of prosecutors and law enforcement officers acting in good faith, and the strong likelihood that many criminals will go free—substantially outweigh the benefits of suppression. There is no reason to expect that the exclusionary rule will deter mundane clerical errors, which will always occur to some extent.

FOURTH AMENDMENT REMEDIES

Our venerable colleagues in dissent advance powerful arguments in favor of applying the exclusionary rule to Byron's case. We have given this case careful consideration and have examined the many precedents of this court and the court above us. With all due respect, we do not view this case as a death sentence for the Fourth Amendment or for the exclusionary rule, but as a modest exception that balances the public interest against individual rights.

First, it is important to remember that the two are not one and the same. The Fourth Amendment contains the basic, constitutional right against unreasonable searches and seizures. The exclusionary rule is simply a judicially enforceable remedy designed by the Court in 1914. It is not a constitutional right. While the Supreme Court could not make the constitutional guarantee a nullity, it could discard the exclusionary rule tomorrow and craft a new remedy for Fourth Amendment violations. As police forces have become more professional and specialized since Justice Day's decision 95 years ago, the Supreme Court has modified its application of the exclusionary rule accordingly, allowing for exceptions to the rule in discrete cases where appreciable deterrence of police misconduct would not reasonably be achieved. Relying on these precedents, we do the same today.

Civil suits remain a viable remedy for persons whose Fourth Amendment rights have been violated, but for whom suppression in court is not required. Though pursuing a civil claim may be, in some instances, a long and arduous process, the prospect of paying damages to plaintiffs whose rights have been violated (in cases where police do not retain qualified immunity) may well cause the police to redouble their efforts to protect constitutional rights while pursuing the cause of justice. Civil trespass suits remain an available remedy to plaintiffs like Joseph Lee Byron.

Many police departments, moreover, handle issues of misconduct and carelessness internally, sanctioning officers and employees who, while not violating the law, fail to act according to the highest standards of professional conduct. In certain cases, it may be better left to the police departments, rather than to the federal courts, to police themselves. These other remedies can help to deter police misconduct, without the attendant costs to society at large that suppression carries. In the face of these alternatives, the dissent's argument that Byron lacks a remedy to redress the violation of his rights rings quite hollow, with all respect.

* * *

It is the opinion of this Court of Appeals that Supreme Court precedents do not require us to suppress the incriminating evidence discovered in Joseph Lee Byron's truck. Having declined to suppress this evidence, we reinstate all of his convictions. Accordingly, the judgment of the United States District Court for the Southern District of Mississippi is **affirmed**.

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EDITH BROWN CLEMENT, *Circuit Judge*, with whom **ELROD**, and **HAYNES**, *Circuit Judges*, join, concurring in part and concurring in the judgment.

I join the opinion of the Court in part and concur in the judgment that the evidence discovered in Byron's truck was

properly admitted in his trial. I differ, however, from my excellent colleagues in the majority with respect to their interpretation of *Arizona v. Evans* (1995). I decline to join the portion of the Court's opinion that relies on *Evans* for support.

In *Evans*, the Supreme Court held that the good-faith exception covers searches and seizures executed by police officers relying in good faith on information supplied to them by officers of a court. The Court recognized that there is a meaningful distinction between members of the police community and the judicial branch. Since the officers in that case behaved in an "objectively reasonable" manner and since the constitutional objective of deterring police misconduct would not be achieved, the Court held that evidence need not be suppressed under those factual circumstances. This was the extent of the ruling.

With great respect, I think it is unnecessary for this Court to rely on *Evans* to justify its decision today when it already has ample support in the prior decisions of *Leon* and *Krull*. It is no small stretch to extend the Court's reasoning in *Evans* to today's set of facts, where the person at fault was a full-time employee of the police department writ large, and not of the state judicial system. The important underpinning of *Evans* was the Court's distinction between the two systems. As Chief Justice REHNQUIST explained in that case: "Because court clerks are not adjuncts to the law enforcement team engaged in the often competitive enterprise of ferreting out crime, they have no stake in the outcome of particular criminal prosecutions."

In this case, of course, the dispatch officer who relayed the misinformation was an "adjunct to the law enforcement team," if not a member of the team. The distinction that the Court recognized in *Evans* is completely inapplicable to the facts of this case, I respectfully submit. I hear the din of our colleagues in the majority jamming square pegs into round holes.

The Court would be better served by not relying on the tenuous applicability of *Evans* to the facts of this case. It is my opinion that the job title of the errant officer is not as important as the Court's deterrence analysis. I find that

today's judgment is properly grounded in the deterrent rule set out in *Leon*. I concur that exclusion would not likely deter careless clerical errors appreciably, and certainly not to the extent that would outweigh the enormous costs of letting likely criminals go free.

* * *

I join the opinion of the Court by Judge SOUTHWICK, except for its discussion of *Arizona v. Evans*. I concur in the result that Joseph Lee Byron is not entitled to a new trial.

FORTUNATO BENAVIDES, *Circuit Judge*, with whom **KING**, **STEWART**, **DENNIS**, and **PRADO** join, dissenting.

I respectfully dissent from today's decision. I would reverse the judgment of the District Court, as the three-judge panel of this Court – composed of myself, Judge KING and JUDGE JOLLY (dissenting) – did originally.

I take the general view articulated pithily by Justice STEVENS in his dissent in *United States v. Leon* (1987) that "an official search and seizure cannot be both 'unreasonable' and 'reasonable' at the same time...We have, of course, repeatedly held that warrantless searches are presumptively unreasonable." The traditional remedy for the federal courts in cases of warrantless, unconstitutional searches and seizures dating back to 1914 (and in state courts since 1961) has been the automatic suppression of the illegally seized evidence, unless in cases when each of the two following conditions articulated by the Supreme Court in *Leon* are met. First, the police officers who acted illegally had to have acted in good faith; that is, they must have relied on objectively reasonable information without intent to execute an illegal search and seizure. They cannot have known that the information was faulty and proceeded with their search anyway. Second, and more critically, there must be no reasonable expectation that the prospect of evidence suppression would deter misconduct and improve the standards of police work. Even if the first condition were met but the

second were not, suppression is required by Supreme Court's precedents in *Weeks* and *Mapp*.

As is often the case in exclusion disputes, it is clear that the police did act in good faith. Both sides agree that Officers Sundquist and Murrell received information from a dispatch clerk in Harrison County that was faulty. It was only after they arrived at the station that they were informed that the search warrant had been dropped.

If ever there were a clear-cut case of action in good faith, this would be it. And judging by the crimes Joseph Lee Byron is alleged to have committed, if ever there were occasion to abandon important constitutional principles in the cause of more immediate justice, this might be it, too. We are not permitted to do this, however, believing as we do that the second condition is not met under this record.

II.

The majority's contention that suppression would not deter clerical errors is not convincing. We turn to the dictionary for first principles. "Deterrence" of carelessness and misconduct does not entail their eradication. Deterrence merely implies that there shall be some negative consequence for police misbehavior, and that the punishment meted out for this misbehavior should give police personnel some reason to be more careful in their day-to-day work. The majority characterizes the deterrence test of *Leon* as requiring the hypothetical possibility that misconduct will be completely prevented if the exclusionary rule applies. This is too exacting a standard.

It is more reasonable to construe deterrence in its most natural meaning. That is, will application of the exclusionary rule in this case likely prevent or discourage careless clerical errors in the future? According to the majority's standard, the answer is no, because there will always be human error no matter what. I agree that human error will be a permanent feature of law enforcement, but on today's record, it is clear that this illegal search could have been prevented by more careful attendance to the records by the dispatch clerk of Harrison

County. The looming threat of losing one's job may be an effective incentive for some people to do more careful clerical work. The prospect of exclusion and the subsequent freeing of criminals, however, would likely be a very powerful incentive for members of the police community - even at the clerical level - to enforce the law while protecting constitutional rights. It would not surprise me if exclusion would deter many mundane errors that would otherwise be committed with impunity.

The Court's reliance on *Arizona v. Evans* (1995), as several members of the Court's majority, led by Judge CLEMENT, agree, is unpersuasive in this case. Errors committed by magistrates (*Leon*) and by court employees (*Evans*) merit good-faith exceptions, as well as searches conducted pursuant to a statute subsequently declared unconstitutional by a court (*Krull*). But the majority's breezy extension of *Evans'* reasoning to this case ignores the important distinction between errors by the impartial judiciary and those by the police force.

Judge CLEMENT has registered her cogent disagreement with the majority's argumentation. We would go further than she, and hold that *Evans* would compel the suppression of the evidence because Chief Justice REHNQUIST's opinion, quoted by the majority, implies that the good-faith exception should not presumptively issue when the error was the fault of the police force. Thus, suppression is presumptive in this case, unless both conditions described in Part I of this dissent are met. I have already explained, in Part II why it is that the second condition has not been fulfilled, and consequently, why suppression is compelled.

Joseph Lee Byron has been accused of having committed horrible crimes. We should be careful, though, not to let these accusations influence our decision-making too much. We are obliged to consider seriously motions to suppress from defendants accused of crimes ranging from white-collar crime to the most violent felonies. The facts of this case could have been much less grotesque, and our analysis should, ideally, remain constant. We are not permitted to bend Supreme Court precedent to achieve a result that we are more comfortable with.

* * *

I believe that suppression would appreciably deter clerical errors such like the one in this case. I am duty-bound to express my opinion that the evidence should be suppressed in this case and that Byron should have a new trial. I would reverse the District Court and **remand** for new proceedings.

Hence, this respectful **dissent**.