

STATE v. CHARLES J. INGALA, AC 41135

G.A. 4 at Waterbury

Criminal; Search and Seizure; Whether Court Properly Determined that Defendant had no Expectation of Privacy in Abandoned Shotgun; Whether Warrantless Search Justified by Exigent Circumstances. On the night of August 28, 2016, a Watertown police officer arrived at the scene of a motor vehicle accident to learn that one of the vehicles involved had left the scene. The officer left in search of a heavily damaged vehicle, and he was flagged down by a motorcyclist who reported that a man who had been involved in a motor vehicle accident had just pointed a shotgun at his head. The motorcyclist led the police to the defendant's home, a multi-family, two story house on a parcel that sloped downward from front to back. The defendant's apartment is located on the lower level, and the door to the apartment faces to the rear and opens onto a deck extending into the back yard. On discovering a car with heavy front-end damage in the driveway, the police proceeded with weapons drawn, identifying themselves as police and calling for the defendant to come out with his hands up. The defendant was handcuffed and detained on the deck, and he repeatedly denied that there was a shotgun on the premises and he invited the police to look for one "anywhere they wanted." The police searched the interior of the defendant's apartment and searched the grounds with flashlights, finding no gun. The police then removed the handcuffs from the defendant and announced that they were leaving. The police did not leave and, shortly after their ostensible departure, they observed the defendant using his cell phone light to look for something in a corner of the property. The police converged on the area and found a sawed-off shotgun in some brush. The defendant was arrested and charged with criminal possession of a firearm in violation of General Statutes § 53a-217 and possession of a sawed-off shotgun in violation of General Statutes § 53a-211. He filed a motion to suppress the evidence obtained by the police, arguing that, while he consented to an initial search and while that initial search may have been justified by exigent circumstances, the warrantless "second search" that included the back yard was illegal. The trial court denied the motion to suppress, first determining that the defendant had no reasonable expectation of privacy in the shotgun because he had abandoned it. Next, the court ruled that the second search constituted a reasonable continuation of the original search that the defendant consented to, and that it was carried out for the narrow purpose of recovering the shotgun. Finally, the trial court determined that the search was justified under the "exigent circumstances" exception to the warrant requirement. Exigent circumstances constitute emergency situations requiring swift police action in order to, among other things, prevent imminent danger to human life. The court found that the police reasonably believed that it was necessary to take immediate action to recover the shotgun in order to protect the public safety. On the denial of his motion to suppress, the defendant entered a plea of nolo contendere to the charges, conditioned on his right to file this appeal. The defendant claims on appeal that the trial court wrongly determined that he abandoned the shotgun when he threw it into shrubbery at the edge of his back yard. The defendant also contends that the second search conducted after the police pretended to leave exceeded the scope of the consent he gave to an initial search. Finally, the defendant claims that the second search was not justified under the exigent circumstances exception because there was no evidence that he ever fired the shotgun at anybody.