

State of Iowa v. Jerry Lynn Burns
S. Ct. No. 20-1150

Appeal from Iowa District Court for Linn County

Facts:

On December 20, 1979, police discovered the victim, Michelle Martinko, in her car in the parking lot of Westdale Mall in Cedar Rapids. Martinko, an 18-year-old senior at Kennedy HS in Cedar Rapids, had been stabbed to death. Over the next three decades, law enforcement investigated numerous suspects and followed multiple leads without making any arrests. In late 2005, DNA testing on a sample taken from the dress Martinko was wearing at the time of her murder yielded a partial male profile. In 2018, utilizing the assistance of a private lab, law enforcement uploaded the partial profile to a public genealogy website with a database of DNA profiles. Through kinship analysis and genetic genealogy, police identified four set of great-great-grandparents as relatives of the donor of the unidentified profile. After collecting and testing samples of members of the great-great grandparents' family, police furthered narrowed their search to three brothers: Defendant Jerry Lynn Burns, Donald Burns, and Kenneth Burns. On October 29, 2018, police surveilled Defendant at a Pizza Ranch restaurant in Manchester, Iowa. After Burns left the restaurant, police without a warrant, collected the drinking straw Defendant had used during his meal. Police submitted the straw to the DCI criminalistics lab for analysis. The lab extracted Defendant's DNA from the straw and compared this profile to the partial unidentified profile obtained from the sample of Martinko's dress. The lab concluded that the Defendant could not be excluded as the donor of the unidentified profile. On December 19, 2018 – the 39th anniversary of Martinko's death – police approach Defendant at his business. During a conversation with Burns, police confronted him with the results of the DNA testing. Police also served Defendant with a warrant compelling him to submit a cheek swab for DNA testing. Police took Burns into formal custody and charged him with Martinko's murder. Defendant's motion to suppress the results of the warrantless search of his DNA from the straw was denied prior to trial. Burns is appealing his conviction of first-degree murder.

Issue:

The appellants (lawyers for Burns) claim that the police confiscation of the drinking straw from the restaurant and subsequent DNA analysis constitute a violation of both the Fourth Amendment to the United States Constitution and article I, section 8 of the Iowa Constitution, both prohibiting unreasonable searches and seizures.

The Fourth Amendment (U.S. Constitution)/article I, section 8 (Iowa Constitution):

“The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.”

Discussion:

Long-standing Constitutional principles establish that violation of the Fourth Amendment results in the exclusion of any evidence gained through an unreasonable search and any subsequent information or evidence gained as a result of that search and seizure. The “Fruit of the poisonous tree” doctrine applies this exclusionary rule to make evidence inadmissible in court if it was derived from evidence that was illegally obtained. For example, if police find a murder weapon beneath the seat of a stopped vehicle, but there was no probable cause to stop the vehicle in the first place, then the results of the search and any evidence obtained should be excluded.

Arguments:

Appellant (Burns) – The appellant argues that the search and seizure of Burns’ DNA from the drinking straw clearly violates the Fourth Amendment to the United States Constitution and article I, section 8 of the Iowa Constitution. Those provisions protect individuals from governmental overreach and require that police present probable cause evidence to a judge to obtain a warrant allowing search and seizure. Burns’ attorneys are not contesting the collection of the straw from the restaurant, instead they claim that the subsequent DNA analysis violates personal privacy interests. DNA contains highly sensitive medical information. Snooping into a person’s genetic markers is the highest form of violation of privacy and allows access to all kinds of information protected by the U.S. and Iowa constitutions. Law enforcement’s mere assurance in this matter that they only use DNA analysis to identify or rule out potential suspects in a crime depends too much on governmental good intentions. There are constitutional guidelines in place to enforce limits. If the police wanted to search and seize Burns’ information, they should have applied for a warrant. The appellant further characterizes DNA as an essential part of a person and something that is shed unintentionally and unknowingly. Burns’ lawyers argue that this elevates the need for a warrant before undertaking any search or seizure.

Appellee (State of Iowa) – The State argues that when Burns abandoned his trash at the restaurant, he also abandoned any privacy interests. Similar to trash left curbside for garbage collection, when a patron leaves a restaurant, there are no longer any expectations of privacy to the detritus. The State maintains that collection of evidence of this type and later analysis is an essential part of law enforcement and investigation, necessary for the police to be able to do their job. New technological advancements are inevitable. Just as fingerprint, blood or fiber crime scene analysis has aided in solving crimes, DNA testing is an integral part of the process. In this instance, police only tested the DNA sample derived from the straw to reduce the pool of potential subjects to a cold case murder almost 40 years ago. Once that initial testing could not rule out Jerry Burns as a suspect, the State applied for and received a warrant to swab for DNA. The results of those tests led to the arrest and conviction of Burns.