

The Burger Court Opinion Writing Database

Vale v. Louisiana

399 U.S. 30 (1970)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

March 16, 1970

Re: No. 727 - Vale v. Louisiana

MEMORANDUM TO:

Justice Douglas

Since I will probably remain in my position to affirm in the above case it would be better if you would make the above assignment.

W. E. B.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

April 22, 1970

Re: No. 727 - Vale v. Louisiana

Dear Hugo:

My notes show you and I were for an affirmance
in the above. If you write a dissent I shall very likely
join you.

Regards,



W.E.B.

Mr. Justice Black

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
CHIEF JUSTICE

May 12, 1970

Re: No. 727 - Vale v. Louisiana

Dear Hugo:

Join me in your dissent in the above.



W. E. B.

Mr. Justice Black

cc: The Conference

April 24, 1970

Dear Chief:

Re: No. 727 - Vale v. Louisiana

I hope to get to the printers tomorrow morning a dissenting opinion in the above case and to have it circulated on Monday.

Sincerely,

Hugo L. Black

Mr. Chief Justice Burger

To: The Chief Justice
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Fertas
 Mr. Justice Marshall

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SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

Donald J. Vale, Appellant,
 v.
 State of Louisiana. } On Appeal From the Su-
 preme Court of Louisiana

From: Black, J.

APR 27 1970

Circulated:

[April —, 1970]

Recirculated:

MR. JUSTICE BLACK, dissenting.

The Fourth Amendment to the United States Constitution prohibits only "unreasonable searches."* A warrant has never been thought to be an absolute requirement for a constitutionally proper search. Searches, whether with or without a warrant, are to be judged by whether they are reasonable, and, as I said in *Preston v. United States*, 376 U. S. 364, 366-367 (1964), common sense dictates that reasonableness varies with the circumstances of the search. See, e. g., *Henry v. United States*, 361 U. S. 98 (1959); *Brinegar v. United States*, 338 U. S. 160 (1949). The Louisiana Supreme Court held not only that the police action here was reasonable, but that failure to conduct an immediate search would have been unreasonable. 252 La. 1056, 1070, 215 So. 2d 811, 816. With that view I am in complete agreement, for the following reasons.

The police, having warrants for Vale's arrest, were watching his mother's house from a short distance away. Not long after they began their vigil a car arrived, sounded its horn, and backed into a parking space near

*The Fourth Amendment says:

"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."

To: The Chief Justice
 Mr. Justice Douglas
 Mr. Justice Harlan
 ✓Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Fortas
 Mr. Justice Marshall

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SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

Donald J. Vale, Appellant, From: Black, J.

v.

State of Louisiana.

On Appeal From the Supreme Court of Louisiana.

Circulated:

MAY 13 1970

Recirculated:

[May —, 1970]

MR. JUSTICE BLACK, with whom THE CHIEF JUSTICE joins, dissenting.

The Fourth Amendment to the United States Constitution prohibits only "unreasonable searches."* A warrant has never been thought to be an absolute requirement for a constitutionally proper search. Searches, whether with or without a warrant, are to be judged by whether they are reasonable, and, as I said, speaking for the Court in *Preston v. United States*, 376 U. S. 364, 366-367 (1964), common sense dictates that reasonableness varies with the circumstances of the search. See, e. g., *Henry v. United States*, 361 U. S. 98 (1959); *Brinegar v. United States*, 338 U. S. 160 (1949). The Louisiana Supreme Court held not only that the police action here was reasonable, but that failure to conduct an immediate search would have been unreasonable. 252 La. 1056, 1070, 215 So. 2d 811, 816. With that view I am in complete agreement, for the following reasons.

The police, having warrants for Vale's arrest, were watching his mother's house from a short distance away.

*The Fourth Amendment says:

"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."

March 17, 1970

Dear Chief:

I received your note of
March sixteenth about No. 727 -
Vale v. Louisiana.

I believe at the end of our
Conference discussion of the case, I
asked Potter Stewart if he would write
it as he was the author of Shipley, and
he agreed. So I think that that is the
assignment.

William O. Douglas

The Chief Justice

CC: Mr. Justice Stewart

April 21, 1970

Ref. No. 727 - Vale v. Louisiana

Dear Potter:

I agree with your position, both on originally
and subsequently circulated.

William IV.

Mr. Justice BREWSTER

Mr. Justice BREWSTER

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

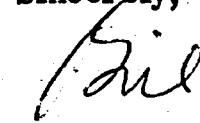
April 20, 1970

RE: No. 727 - Vale v. Louisiana

Dear Potter:

I agree with your opinion in the
above case.

Sincerely,



W.J.B. Jr.

Mr. Justice Stewart

cc: The Conference

Am

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To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice White
 Mr. Justice Fortas
 Mr. Justice Marshal

SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

From: Stewart, J. *APR 17 1970*
 Circulated:

Donald J. Vale, Appellant,
 v.
 State of Louisiana. } On Appeal From the Supreme Court of Louisiana.

[April —, 1970]

MR. JUSTICE STEWART delivered the opinion of the Court.

The appellant, Donald Vale, was convicted in a Louisiana court on a charge of possessing heroin and was sentenced as a multiple offender to 15 years' imprisonment at hard labor. The Louisiana Supreme Court affirmed the conviction, rejecting the claim that evidence introduced at the trial was the product of an unlawful search and seizure. 215 La. 1056, 215 So. 2d 811. We granted Vale's motion to proceed *in forma pauperis*, postponed consideration of the question of jurisdiction to the hearing of the case on the merits, and limited review to the search-and-seizure question. 396 U. S. 813.*

The evidence adduced at the pretrial hearing on a motion to suppress showed that on April 24, 1967, officers

*In his Notice of Appeal, Vale asserted that the Louisiana Supreme Court in affirming the conviction had relied upon a state statute, Article 225 of the Louisiana Code of Criminal Procedure (1967), which provides:

"A peace officer making an arrest shall take from the person arrested all weapons and incriminating articles which he may have about his person."

Although the state court referred to this statute in the course of its opinion, we do not understand its decision to be grounded on the statute. We therefore treat the appeal as a petition for certiorari, which is hereby granted. 28 U. S. C. § 2103.

STYLISTIC CHANGES THROUGHOUT.

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice White
 Mr. Justice ~~Frankfurter~~
 Mr. Justice Marshall

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SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

From: Stewart, J.

Circulated:

APR 20 1970

Recirculated:

Donald J. Vale, Appellant,
 v.
 State of Louisiana. } On Appeal From the Su-
 preme Court of Louisiana.

[April —, 1970]

MR. JUSTICE STEWART delivered the opinion of the Court.

The appellant, Donald Vale, was convicted in a Louisiana court on a charge of possessing heroin and was sentenced as a multiple offender to 15 years' imprisonment at hard labor. The Louisiana Supreme Court affirmed the conviction, rejecting the claim that evidence introduced at the trial was the product of an unlawful search and seizure. 252 La. 1056, 215 So. 2d 811. We granted Vale's motion to proceed *in forma pauperis*, postponed consideration of the question of jurisdiction to the hearing of the case on the merits, and limited review to the search-and-seizure question. 396 U. S. 813.*

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To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun

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From: [Signature], J.

SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

Recd. [Signature]

JUN 17 1970

Donald J. Vale, Appellant,
 v.
 State of Louisiana. } On Appeal From the Supreme Court of Louisiana.

[April —, 1970]

MR. JUSTICE STEWART delivered the opinion of the Court.

The appellant, Donald Vale, was convicted in a Louisiana court on a charge of possessing heroin and was sentenced as a multiple offender to 15 years' imprisonment at hard labor. The Louisiana Supreme Court affirmed the conviction, rejecting the claim that evidence introduced at the trial was the product of an unlawful search and seizure. 252 La. 1056, 215 So. 2d 811. We granted Vale's motion to proceed *in forma pauperis*, postponed consideration of the question of jurisdiction to the hearing of the case on the merits, and limited review to the search-and-seizure question. 396 U. S. 813.*

The evidence adduced at the pretrial hearing on a motion to suppress showed that on April 24, 1967, officers

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"A peace officer making an arrest shall take from the person arrested all weapons and incriminating articles which he may have about his person."

Although the state court referred to this statute in the course of its opinion, we do not understand its decision to be grounded on the statute. We therefore treat the appeal as a petition for certiorari, which is hereby granted. 28 U. S. C. § 2103.

April 17, 1970

Re: No. T27 - Yale v. Louisiana

Dear Potter:

Please join me.

Sincerely,

John

Mr. Justice Douglas

Mr. Justice

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 21, 1970

Re: No. 727 - Donald J. Vale v. Louisiana

Dear Potter:

Please join me.

Sincerely,


T.M.

Mr. Justice Stewart

cc: The Conference