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Supreme Court rules that district courts have the authority to independently raise evidence issues about warrantless searches

SANTA FE – District courts on their own can order hearings to determine whether evidence obtained through a warrantless search by law enforcement will be allowed in a criminal prosecution, the state Supreme Court ruled today.

In a split decision, the Court concluded that a judge in northern New Mexico had the constitutional authority to raise the evidentiary issue by ordering suppression hearings "sua sponte," meaning on the court's own initiative without a motion being made by an attorney for the defense or other party.

"For more than one hundred years this Court has recognized the authority of courts to act to protect a defendant's fundamental rights," the Court wrote in an opinion by Chief Justice David K. Thomson.

The court's majority rejected arguments by the state that district courts lack the authority and jurisdiction to raise an evidence suppression issue on their own by scheduling a hearing and ordering briefing on the matter by defense and prosecuting attorneys.

"A court does not have to be an aggrieved party to ask for analysis on an apparent constitutional infirmity that resulted in evidence that forms the basis of the prosecution against the accused," the Court stated.

In New Mexico, a search without a court-approved warrant is legally presumed to be unconstitutional unless the state proves the reasonableness of the search and seizure.

The Court issued its opinion in response to a state Court of Appeals' request to clarify questions of law concerning pending challenges to evidence suppression orders by the Eighth Judicial District Court in several Colfax County cases. The justices ordered the cases back to the Court of Appeals for decisions based on guidance provided by today's opinion.

In one case, Raton police conducted a warrantless search of Jessica Vasquez's home in 2021 after receiving a report of alleged domestic abuse. Police later obtained a search warrant based on seeing drugs and paraphernalia in the house. Vasquez was charged with two felonies — child abuse and possession of a controlled substance.

The district court on its own questioned the legality of the search. After conducting a hearing, the court ruled that Vasquez was unlawfully coerced into giving consent for police to enter her home. The court excluded the use of evidence found during the unconstitutional search. Prosecutors appealed the decision.

The district court, by independently raising the evidentiary issue, "did not tip the scale of justice; the court merely ensured its balance," the justices wrote in the majority opinion.

Vasquez's case was among 30 in which the district court scheduled suppression hearings after seeing what the judge described as a "pattern and practice by one municipal police department of violating indigent citizens' right to be free from unreasonable search and seizure as a means to address the community's drug problem." Prosecutors dismissed 17 of the cases before the judge ruled on the suppression issues.

The Court's majority concluded that the district court's actions did not demonstrate bias or create the appearance of bias, but the justices acknowledged that the judge's statement about a systemic pattern of violations "does not carry with it the ideal of neutrality."

"However, the State did not rebut this statement and our review of other cases where the judge sua sponte raised the suppression issue does suggest a pattern of violation," the Court wrote in the majority opinion.

The justices noted that the district attorney's office dismissed one of the Colfax County cases by explaining a "[K]afkaesque arrest for an unnamed charge and subsequent search and retrieving of evidence" that made "no justifiable sense."

The Court cautioned that its decision "does not create a duty or incentivize courts to 'sally forth each day looking for wrongs to right.' Our holding is limited to a district court's authority to order a suppression hearing when a presumptively unconstitutional search and seizure is at issue."

The Court added, "However, we also note that our holding should not be read as creating a rule that restricts the inherent authority of courts to raise suppression issues only in isolated contexts, allowing systemic abuses to persist due to their repetitive nature."

In a dissenting opinion, Justice Briana H. Zamora concluded that the district court's orders should be reversed and disagreed with the majority that the trial court had the authority on its own to order an evidence suppression hearing.

"In my view, the district court's actions amount to a clear departure from the role of neutral arbiter in violation of the fundamental precepts of our adversarial system," Justice Zamora wrote.

She explained that the court could have raised concerns with the parties about the searches in a number of ways other than scheduling suppression hearings. For instance, the court could have called a status conference to determine whether the defense planned to challenge the searches,

she wrote. Instead, the district court researched its docket and ordered suppression hearings in 30 cases.

In the Vasquez case, the "order setting the matter for a suppression hearing appeared to prejudge the outcome of the hearing," Justice Zamora wrote, and the "district court questioned the State's witnesses at the suppression hearing while defense counsel stood silent."

"Taken as a whole, the district court's actions in this case amounted to advocacy and not impartial adjudication," Justice Zamora wrote.

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To read the decision in *State v. Vasquez*, No. S-1-SC-39474, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/530885/index.do