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SUPREME COURT DECISIONS

FEDERAL COLLATERAL ATTACK OF STATE CONVICTIONS SHARPLY CURTAILED

By Charles Jay Iseman

The Supreme Court of the United States, in the two recent companion cases of *Stone v. Powell* and *Wolff v. Rice*, 96 S.Ct. 3037 (1976), sharply curtailed access to federal courts by persons convicted of crimes in state courts. The Court held that "... where the State has provided an opportunity for full and fair litigation of a Fourth Amendment claim, a state prisoner may not be granted federal habeas corpus relief on the ground that evidence obtained in an unconstitutional search or seizure was introduced at his trial." *Id.* at 3052. Prior to this decision, if a defendant convicted in state court had objected unsuccessfully to the admission of evidence allegedly obtained pursuant to an illegal search and seizure, and had subsequently exhausted all his appeals, he still had the right to "collaterally attack" his conviction by bringing a habeas corpus action in federal district courts.

FACTS

Powell became involved in a California liquor store altercation which resulted in the death of the store manager's wife. Ten hours later Powell was arrested for vagrancy in Nevada. In a search incident to the vagrancy arrest, the Nevada police discovered a .38 caliber revolver with six expended cartridges in the cylinder. Powell was extradited to California where he was convicted in state court of second degree murder. He sought unsuccessfully to

exclude under *Mapp v. Ohio*, 367 U.S. 643 (1961), the revolver and the testimony of the Nevada police officer, on the grounds that the Nevada vagrancy statute was unconstitutionally vague and that consequently his arrest and the ensuing search and seizure were unlawful. Powell's second degree murder conviction was affirmed by a California District Court of Appeals, which held that the admission of the police officer's testimony was, at most, harmless error. The Supreme Court of California denied Powell's petition for habeas corpus relief. A United States District Court denied Powell's amended petition for a writ of federal habeas corpus. The United States Court of Appeals for the Ninth Circuit reversed, finding that the vagrancy ordinance was unconstitutionally vague, rendering Powell's arrest illegal.

In *Wolff v. Rice*, *supra*, Rice was convicted of murder in a Nevada state court. The Supreme Court of Nevada affirmed the conviction, finding that the incriminating evidence was properly admitted, having been seized pursuant to a search conducted under a valid search warrant. A United States District Court granted Rice's petition for a writ of habeas corpus on the ground that the search warrant was invalid because the supporting affidavit did not meet the *Aguilar-Spinelli* test. See *Spinelli v. United States*, 393 U.S. 410 (1969); *Aguilar v. Texas*, 378 U.S. 108 (1964). The Court of Appeals for the Eighth Circuit affirmed. *Powell v. Stone*, 507 F.2d 93 (1974).

THE COURT'S OPINION

The Supreme Court granted a writ of certiorari, *Stone v. Powell*, 96 S.Ct. 29 (1975), for the purpose of addressing the issues of the proper scope of federal habeas corpus and the exclusionary rule. The Court examined the historical development of both the writ of habeas corpus in the United States and the creation and expansion of the exclusionary rule to enforce the Fourth Amendment's ban on unreasonable searches and sei-

zures. The Court found that the exclusionary rule has been stringently applied in federal criminal cases. This application flows from the Supreme Court's administrative role as supervisor over the federal courts and from its attempt to maintain order and integrity within the federal judiciary by setting the highest possible standards. The Court further found that the reason for the *Mapp* extension of the exclusionary rule to the states was the belief that exclusion of illegally seized evidence would deter future illegal police conduct. However, the Court noted that the evidence excluded by the rule tends to have great probative value in establishing guilt or innocence.

Consequently, the rule results in evidentiary windfalls to criminals rather than protection for the public. The Court stated:

Application of the rule thus deflects the truth finding process and often frees the guilty. The disparity in particular cases between the error committed by the police officer and the windfall afforded a guilty defendant by application of the rule is contrary to the idea of proportionality that is essential to the concept of justice. Thus, although the rule is thought to deter unlawful police activity in part for the nurturing of respect for the Fourth Amendment values, if applied indiscriminately it may well have the opposite effect of generating disrespect for the law and the administration of justice. These long-recognized costs of the rule persist when a criminal conviction is sought to be overturned on collateral review on the ground that a search-and-seizure claim was erroneously rejected by two or more tiers of state courts. 96 S.Ct. at 3050.

In concluding, the Court balanced the rights of the accused with the public interests in both safety and the efficient administration of justice. As a result of this decision, once a defendant convicted in state court has exhausted all of his state appellate review, with each step providing the right to be heard, he may not collaterally attack the admission of allegedly illegally seized evidence through the federal habeas corpus procedure.