

State v. Cox (20)

Additional Case Names

9:15 am - webex

Case Number

S-19-0780

Case Audio

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October 1, 2020

Case Time

9:00 AM

Court Number

Douglas

Case Location

Lincoln

Court Type

District Court

Case Summary

S-19-0780 State v. Forest R. Cox, III (Appellant)

Douglas County District Court, Judge Kimberly Miller Pankonin

Attorneys: Austin N. Relph (Attorney General's Office) --- Natalie M. Andrews (Public Defender's Office)(Appellant)

Criminal: 1st degree murder; use of deadly weapon to commit felony; possession of deadly weapon by prohibited person; motion to suppress

Proceedings below: The district court denied Appellant's motions to suppress. Following a jury trial, Appellant was convicted and sentenced to life on Count I, 25-30 years on Count II, and 40-45 years on Count III.

Issues: 1) The district court should have sustained the motion to suppress evidence acquired as a result of the execution of a general search warrant, lacking in an evidentiary nexus to the cellular phone and particularity, 2) the State did not meet its burden to establish the good faith doctrine should be applied to the evidence acquired as a result of the search warrant of the cell phone, as it was executed subsequent to *Carpenter* and amounts to a general warrant, one that a reasonable officer would know to be illegal, 3) the district court committed reversible error in overruling Appellant's objection and motion to suppress as the search warrant for the cellular phone, Exhibit 5, was tainted by the initial unlawful search of the cellphone data, 4) the limited facts before the court reveal that the trial court incorrectly analyzed and applied the independent source doctrine, 5) the district court committed reversible error in applying the independent source doctrine to Exhibit 5, the subsequent search warrant for the cellular records, wherein the burden to set forth this doctrine belongs to the State, who failed to raise it at the trial level, and 6) law enforcement acquired statements

from the Appellant in violation of his 5th Amendment Rights pursuant to *Miranda* and therefore, the motion to suppress his statements should have been sustained by the trial court.

Schedule Code

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