

Appendix
(A)

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 17-3817

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Feb 21, 2019
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RONALD R. MYLES, JR.,

Defendant-Appellant.

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)
)
) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
) THE NORTHERN DISTRICT OF
) OHIO
)
)

ORDER

Before: KEITH, KETHLEDGE, and THAPAR, Circuit Judges.

Ronald R. Myles, Jr., a pro se federal prisoner, appeals the district court's denial of his motion to suppress evidence and to return property in his criminal case. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

After Myles robbed a bank on June 4, 2016, in Marion, Ohio, the Marion Municipal Court issued a warrant (the "June 6th warrant") for his arrest. Law enforcement, however, was unable to apprehend Myles before he robbed a second bank in Marion on June 17, 2016. Through cell-phone tracking data, Myles was located later that day at a hotel in Montgomery County, Ohio, and was arrested. Law enforcement immediately obtained a search warrant (the "June 17th warrant") for Myles's hotel room and car from the Vandalia Municipal Court in Montgomery County and seized over \$137,000 in cash, a Mercedes, marijuana, two cell phones, and other personal property.

A Marion County grand jury subsequently indicted Myles on charges of aggravated robbery, but the State dismissed the charges upon the issuance of a federal indictment against Myles for one count of bank robbery.

Myles soon filed a pro se motion to dismiss the federal indictment, to suppress the evidence seized at the hotel, and for the return of his seized property, all on the ground that the search and seizure at the hotel occurred without an active, lawful warrant. He challenged the validity of both warrants and asserted, among other things, that the June 17th warrant had not yet been issued at the time of the search, as purportedly shown by a file-stamp date of June 24, 2016, and by a state judge's comment at a pre-trial hearing on July 21, 2016.

At a hearing, the district court orally denied Myles's combined motions and began by rejecting his motion to dismiss the indictment. The district court determined that Myles's challenge to the June 6th arrest warrant was based on a misunderstanding of the Ohio Rules of Criminal Procedure and that the warrant provided sufficient grounds to arrest Myles on June 17. As to the June 17th search warrant, the district court concluded that law enforcement did obtain it on that date, shortly after Myles's arrest, but simply had not filed it in court until June 24. Additionally, the affidavit supported the probable cause determination because it detailed the events of June 17 and included witness statements, cell phone location data, hotel records, and surveillance information. While the affidavit contained a few misstatements, the misstatements were connections drawn by a police officer and were not "deliberately or recklessly false as opposed to perhaps inadvertently or negligently inaccurate." In any event, the remainder of the affidavit was sufficient to support a finding of probable cause.

The district court next rejected Myles's motion to suppress the evidence seized, noting that the June 6th and June 17th warrants were not invalid for the aforementioned reasons. Alternatively, the court concluded that even if a deficiency existed in either warrant, the good-faith exception to the warrant requirement applied because law enforcement had not acted unreasonably or in bad faith. *See Herring v. United States*, 555 U.S. 135, 142, 144-45 (2009). Finally, the

district court denied Myles's motion for the return of property because the marijuana was contraband and the remainder of the property was evidence in the ongoing criminal proceeding.

Myles thereafter was charged by superseding indictment on two counts of armed bank robbery. See 18 U.S.C. § 2113(a), (d). A jury convicted him of both counts, and the district court sentenced him to 222 months in prison and three years of supervised release, and ordered him to pay \$145,468 in restitution.

On appeal, Myles argues that the district court should have granted his motion to suppress and for the return of property pursuant to the *Rooker-Feldman*¹ and res judicata doctrines.)

With respect to the denial of a motion to suppress, we review the district court's findings of fact for clear error, (its legal conclusions de novo,) and the evidence in the light most favorable to the government. *United States v. Jackson*, 682 F.3d 448, 452 (6th Cir. 2012).

In support of his argument that the *Rooker-Feldman* and res judicata doctrines required the district court to grant his motion to suppress and return his property, Myles relies on the state judge's purported "ruling" on July 21, 2016, that (the June 6th warrant was the sole warrant.) He further argues that the state court's "ruling" precluded application of the good-faith exception and that there should have been a federal warrant.

The *Rooker-Feldman* doctrine "bars attempts by a federal plaintiff to receive appellate review of a (state-court decision) in a federal district court." *Howard v. Whitbeck*, 382 F.3d 633, 638 (6th Cir. 2004). "To determine whether a state court action is a 'decision,' we evaluate whether the state court addressed the claim 'on the merits.'" *Berry v. Schmitt*, 688 F.3d 290, 299 (6th Cir. 2012) (quoting *Feldman*, 460 U.S. at 478). The doctrine is limited to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

¹ See *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923).

Under the doctrine of res judicata, federal courts must give the same preclusive effect to state court judgments as those judgments would receive in the courts of the rendering state. *See Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 80-85 (1984). In Ohio, res judicata has four elements:

- (1) a prior final, valid decision on the merits by a court of competent jurisdiction;
- (2) a second action involving the same parties, or their privies, as the first; (3) a second action raising claims that were or could have been litigated in the first action; and (4) a second action arising out of the transaction or occurrence that was the subject matter of the previous action.

United States ex rel. Sheldon v. Kettering Health Network, 816 F.3d 399, 415 (6th Cir. 2016) (quoting *Hapgood v. City of Warren*, 127 F.3d 490, 493 (6th Cir. 1997)).

At the state preliminary hearing in Marion County Common Pleas Court on July 21, 2016, Myles asked the judge if the June 6th warrant was the latest warrant and argued that it permitted only his arrest and not the seizure of his property. He then requested that the state charges be dismissed for lack of jurisdiction. Although the state judge stated that the June 6th warrant "was the latest one that was filed," the judge directed Myles to submit a written motion to dismiss. Myles did so, but the judge did not rule on the motion because the State dismissed the case due to the initiation of federal prosecution.

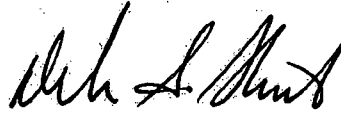
We conclude that the district court did not err by failing to grant Myles's motion to suppress and return his property. The *Rooker-Feldman* and res judicata doctrines do not apply because the state court did not address Myles's argument on the merits and issue a decision. *See Kettering Health Network*, 816 F.3d at 415; *Berry*, 688 F.3d at 299. Furthermore, the government was not a party to the state action. *See Kettering Health Network*, 816 F.3d at 415.

We further conclude that no federal search warrant was necessary. Evidence seized by state officers pursuant to a state search warrant generally may be used in a federal prosecution, provided that the warrant passes constitutional muster. *See United States v. Bennett*, 170 F.3d 632, 636 n.1 (6th Cir. 1999). For the reasons stated by the district court, the search warrant for Myles's hotel room and car was supported by probable cause as required by the Fourth Amendment. *See United States v. Rose*, 714 F.3d 362, 366 (6th Cir. 2013).

To the extent that Myles attempts to raise an independent argument regarding the denial of his motion for the return of his property, we conclude that the district court did not abuse its discretion because criminal proceedings had not terminated, and Myles had not shown that he was lawfully entitled to the property. *See* Fed. R. Crim. P. 41(g); *Savoy v. United States*, 604 F.3d 929, 932 (6th Cir. 2010).

Accordingly, we **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk