



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. RONALD JAMES SISCO, II  
CR-15-0265-PR**

**PARTIES:**

*Petitioner:* State of Arizona

*Respondent:* Ronald James Sisco, II

*Amicus Curiae:* Arizona Attorneys for Criminal Justice (AACJ)

**FACTS:**

Tucson police officers sought and obtained a search warrant for a particular unit of a four-unit storage facility. The initial affidavit supporting the search warrant application stated that three police officers had smelled, from a street and sidewalk, an “overpowering” or “strong odor of fresh marijuana” coming from Unit 18. Based on the affidavit, a judge concluded there was probable cause for the unlawful possession of marijuana and issued a warrant. When the officers entered Unit 18, they found it vacant. The same officer who had applied for the first warrant then applied for a second warrant for Unit 20, which was separated from other units by a wall and locked gate. He stated that, as he and other officers performed a search of Unit 18, they were able to narrow down the source of the odor and exclude other potential sources. The judge issued an amended warrant for Unit 20, again based only on the officer’s information about the scent of marijuana.

Upon entering Unit 20, the officers discovered growing equipment and dozens of marijuana plants. They also discovered that a separate part of the building served as a living quarters and several items indicated a small child lived there. Personal property found in the unit established that Ronald James Sisco, II was one of its occupants. He was charged with crimes of child abuse, possession of drug paraphernalia, possession of marijuana for sale, and production of marijuana.

Sisco moved to suppress the evidence by challenging the search warrant on several grounds, including that the scent of marijuana failed to establish probable cause to believe criminal activity was taking place.

After an evidentiary hearing, the trial court denied the motion, finding that the Arizona Medical Marijuana Act had no impact on the probable cause determination in this case. Sisco was convicted after a bench trial and sentenced to concurrent prison terms, the longest of which is 3.5 years. He appealed.

The court of appeals recognized that Arizona had subscribed to the “plain smell” doctrine in past years, since marijuana use or possession was illegal under all circumstances in Arizona prior to the adoption of the AMMA. Consequently, the “plain smell” of the drug indicated the

commission of a crime. But, a majority of the appellate court held that, because the possession and use of medical marijuana is now legal in Arizona for registered, qualified persons as provided in the AMMA, the odor of marijuana, whether burnt or unburnt, is insufficient by itself to establish probable cause of a crime in Arizona or a substantial basis for a search warrant sought for a violation of such.

**ISSUE:**

“Did the two-judge majority in the published court of appeals decision err as a matter of law in holding that the plain smell of fresh marijuana is no longer sufficient to establish probable cause for a search? Did the majority further err in finding that probable cause to search was otherwise lacking under its newly fashioned ‘odor plus’ standard and in finding that the good-faith exception to the exclusionary rule was unavailable in this case?”

**DEFINITIONS:**

A.R.S. § 36-2811(B)(1) provides, among other things, that a registered qualifying AMMA patient or caregiver “is not subject to . . . denial of any right or privilege” for the use or possession of an amount of marijuana allowable under the Act. The AMMA gives the same protections to persons “in the presence or vicinity of” the medical use of marijuana.

The Arizona Constitution, article II, § 8 provides that, “No person shall be disturbed in his private affairs, or his home invaded, without authority of law.”

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