Summary of SC98376, *State of Missouri v. James C. Bales*
Appeal from the Pulaski County circuit court, Judge John Beger
Argued September 9, 2020; submitted July 8, 2021; opinion issued August 31, 2021

Attorneys: Bales was represented Erica Mynarich, of Carver Cantin & Mynarich, LLC in Springfield, (417) 831-7373. The state was represented by Sherrie Hamner and Kevin Hillman of the Pulaski county prosecuting attorney's office in Waynseville, (573) 774-4770.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The state appeals from an order sustaining a defendant's motion to suppress evidence obtained from the search and seizure of the defendant's cellular phone. In a 4-3 decision by Judge Patricia Breckenridge, the Supreme Court of Missouri affirms the circuit court's order. The seizure of the phone at the sheriff's office, as opposed to at the defendant's home, was outside the scope of the search warrant, and the good faith exception to the exclusionary rule does not apply because it was unreasonable for the detective to rely on the warrant in seizing the phone at the sheriff's office. Accordingly, the evidence obtained from the search and seizure of the phone was properly suppressed.

Chief Justice Paul C. Wilson dissents in a separate opinion joined by two judges. He would hold that the warrant described with sufficient particularity the place to be searched as the phone itself, and that, even if the warrant was invalid, the good faith exception to the exclusionary rule applies because the detective took all steps that could reasonably be expected of him in obtaining the search warrant and executing it at the sheriff's office.

Facts: A grand jury indicted James Christopher Bales for first-degree domestic assault, two counts of abuse of a child and two counts of endangering the welfare of a child. The charges arose after a child in Bales' care presented at the hospital with symptoms of shaken baby syndrome. Bales filed a motion to quash the search warrant and to order return of his phone and all items obtained, received or copied from it. His motion alleged the search warrant lacked particularity in describing the place to be searched and the person or things to be seized. The first search warrant described the item to be seized as a black Samsung phone with black case located at Bales' home address. The application for the search warrant contained the same description but also included the phone number and that it belonged to Bales. The circuit court conducted an evidentiary hearing at which a detective testified he applied for the search warrant after Bales stated he had a video of the child banging its head. The detective seized the phone from Bales at the sheriff's office when he came in for questioning. On the phone, investigators found additional evidence of possible criminal activity and applied for a second search warrant for the newly discovered evidence. The circuit court sustained Bales' motion and ordered the suppression of all evidence seized pursuant to both search warrants. The state appeals.

AFFIRMED.

Court en banc holds: (1) The seizure of Bales' phone at the sheriff's office was outside the scope of the search warrant. The first search warrant authorized the search of a black Samsung cell phone in a black case located at Bales' home address in Dixon and authorized officers to search it for electronic data. Executing the search warrant at the sheriff's office, or any location other than Bales' address in Dixon was beyond the scope of the search authorized by the warrant. The search warrant, therefore, was not a valid legal basis for the seizure.

(2) The good faith exception to the exclusionary rule does not apply. The good faith exception allows evidence seized pursuant to an invalid warrant to be admitted if it was objectively reasonable for the officer to rely on the warrant. It is not objectively reasonable for an officer to search beyond the scope of a warrant. Because the cell phone's seizure at the sheriff's office was outside the scope of the search warrant, the search warrant is not a valid legal basis for its seizure or search outside the described premises, and any belief of the detective otherwise is not reasonable. The evidence obtained from the seizure of the phone, therefore, was properly suppressed.

Dissenting opinion by Chief Justice Paul C. Wilson: The author would reverse the circuit court's order. He would find that the warrant sufficiently identified the place to be searched as Bales' phone and that his address was included to further specify the phone in question. He would have further concluded that, even if the warrant was not sufficiently particular, the good faith exception applies because the detective took every step that reasonably could be expected of him in that, after he saw the videos on the phone, he completed an affidavit including all the details at his disposal and a judge determined probable cause existed to search Bales' phone based on that affidavit. Therefore, it was reasonable for the detective to believe the warrant authorized him to conduct the search of the phone at the sheriff's office.