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LEGAL ISSUES

DID THE CIRCUIT COURT ERR IN HOLDING THAT THE WARRANTLESS SEARCH AND SEIZURE OF APPELLANTS' TRASH BAGS DID NOT VIOLATE THEIR STATE CONSTITUTIONAL PROTECTION AGAINST UNREASONABLE SEARCH AND SEIZURE OF THEIR PERSONAL PROPERTY?

The Circuit Court held that the South Dakota Supreme Court has not indicated that the Constitution of the State of South Dakota gives any greater protection in this regard than the United States Constitution as dealt with in the United States Supreme Court case of *California v. Greenwood*, 486 U.S. 35 (1988), 103 S.Ct. 1625, 100 L.Ed.2d 30 (there is no prior case law in South Dakota on this issue), and therefore denied Appellants' motions to suppress the evidence obtained against them as a result of the warrantless searches and seizures of Appellants' personal property.

DID THE CIRCUIT COURT ERR IN HOLDING THAT THE AFFIDAVIT IN SUPPORT OF THE SEARCH WARRANT IN THIS CASE ESTABLISHED PROBABLE CAUSE FOR THE ISSUANCE OF A SEARCH WARRANT TO SEARCH APPELLANTS' RESIDENCE AND PERSONS?

The Circuit Court held that the Affidavit in support of the search warrant in this case established probable cause for the search of Appellants' residence and persons, and denied Appellants' motions to suppress all physical evidence obtained against them as a result of the execution of this search warrant.

DID THE CIRCUIT COURT ERR IN DENYING APPELLANTS' MOTIONS TO SUPPRESS THEIR STATEMENTS UNDER *STATE V. ABDOUCH*?

The Court said in its May 6<sup>th</sup>, 2003 Memorandum Decision that, *had* the Court granted Appellants' motions to suppress the physical evidence obtained against them as a result of the execution of the search warrant, Appellants' argument that their statements given to law enforcement *subsequent* to the search should be suppressed as "fruit of the poisonous tree", under *State v. Abdouch*, 434 N.W.2d 317, 327 (Neb. 1989), "may have [had] merit". However, the Court held that since it found the search was valid, the statements were not fruit of the poisonous tree and denied Appellants' motions to suppress their statements.