

1991

Utah v. Rowe : Unknown

Utah Supreme Court

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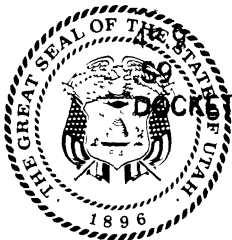
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Shelden R. Carter; Harris, Carter & Harrison; attorneys for respondent.

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STATE OF UTAH

BRIEF

DOCKET NO.

910165

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May 6, 1992

FILED

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CLERK SUPREME COURT
UTAH

Geoffrey J. Butler
Clerk of the Court
Utah Supreme Court
332 State Capitol Bldg.
Salt Lake City, Utah 84114

Re: State v. Rowe, Sup. Ct. No. 910165
Utah R. App. P. 24(j) letter.

Dear Mr. Butler,

Pursuant to rule 24(j), Utah Rules of Appellate Procedure, the State submits the following updated citations for cases previously cited by the State. Unless otherwise noted, the holdings of the cases have remained as delineated in Petitioner's Opening Brief.

1. Commonwealth v. Ferretti, 395 Pa. Super. 629, 577 A.2d 1375 (1990), cert. denied, 527 Pa. 597, 589 A.2d 688 (1991); cited in Petitioner's Opening Brief at 25.
2. Lewis v. United States, 594 A.2d 542 (D.C. App. 1991), cert. denied, 112 S. Ct. 1225 (1992); cited in Petitioner's Opening Brief at 24.
3. Minnesota v. Olson, 495 U.S. 91 (1990); cited in Petitioner's Opening Brief at 21-24, 26-27.
4. Owens v. State, 79 Md. App. 385, 556 A.2d 1158, cert. denied, Maryland v. Owens, 112 S. Ct. 452 (1991); cited in Petitioner's Opening Brief at 25.
5. People v. Bass, 220 Ill.App.3d 230, 580 N.E.2d 1274 (1991); cited in Petitioner's Opening Brief at 25.
6. People v. Dyla, 142 A.D.2d 423, 536 N.Y.S.2d 799 (N.Y.App.Div. 1988), cert. denied, 74 N.Y.2d 808, 546 N.Y.S.2d 566, 545 N.E.2d 880 (N.Y. 1989); cited in Petitioner's Opening Brief at 12.

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7. People v. Murray, 565 N.Y.S.2d 212 (N.Y.App.), cert. denied, 78 N.Y.2d 1013, 575 N.Y.S.2d 821, 581 N.E.2d 1067 (N.Y. 1991); cited in Petitioner's Opening Brief at 26.

8. State v. Brosnan, 589 A.2d 1234 (Conn. App.), cert. granted, 593 A.2d 132 (Conn. 1991); and then affirmed in part and reversed in part, 221 Conn. 788, --- A.2d ---, 1992 WL 85198 (April 28, 1992). As cited in Petitioner's Opening Brief at 24-25, the Connecticut Court of Appeals had concluded that the defendant had an expectation of privacy in a third party home sufficient to challenge the legality of the entry into the home where the defendant was an overnight guest and found asleep in the owner's bed at the time of the entry. The Connecticut Supreme Court reversed on this issue, ruling that the evidence of defendant's overnight status was conflicting and, therefore, the court of appeals could not conclude as a matter of law that the defendant was an overnight guest. Because the defendant's overnight status was determinative of his common law right to resist the alleged illegal entry, the case was remanded for jury resolution of the factual issue. Id., 1992 WL 85198 at 4-5.

9. State v. Ramirez, 817 P.2d 774 (Utah 1991); cited in Petitioner's Opening Brief at 2.

10. State v. Taylor, 818 P.2d 561 (Utah App. 1991); cited in Petitioner's Opening Brief at 20.

11. United States v. Donnes, 752 F.Supp. 441 (D. Wyo. 1990), reversed on other grounds, 947 F.2d 1430 (10th Cir. 1991); cited in Petitioner's Opening Brief at 25.

12. United States v. McNeal, 735 F.Supp. 738 (N.D. Ohio 1990), affirmed by, 955 F.2d 1067 (6th Cir. 1992), cert. filed (April 6, 1992); cited in Petitioner's Brief at 24. The Court of Appeals for the Sixth Circuit's decision is cited in Petitioner's Reply Brief at 6.

Thank you for your attention in distributing copies of this letter to the Court.

Sincerely,



CHRISTINE F. SOLTIS
Assistant Attorney General
Section Chief, Criminal Appeals

CFS:jn
cc: Shelden R. Carter