

Gerstein v. Pugh

Pugh and others in custody under informations sought a probable cause determination in a class action suit against Dade County officials. Under the challenged Florida procedures, a person arrested without a warrant and charged by information could be jailed or subjected to other restraints pending trial without any opportunity for a probable cause determination. The Court held that the 4th Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following warrantless arrests. Florida's procedures are unconstitutional because a prosecutor's assessment of probable cause, standing alone, does not meet the requirements of the 4th Amendment and is insufficient to justify restraint of liberty pending trial. Whatever procedure a State may adopt, it must provide a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty, and this determination must be made by a judicial officer either before or promptly after arrest.

Additionally, the probable cause determination may be made by a judicial officer without an adversary hearing and by the use of informal procedures. Further, because of its limited function and its non-adversary character, the probable cause determination is not a "critical stage" in the prosecution that would require appointed counsel.