

SUPREME COURT OF LOUISIANA

State of Louisiana v. Wesley Dick; State of Louisiana v. Melvin Smith

951 So. 2d 124 (La. 2007) · No. Nos. 2006-KP-2223, 2006-KK-2226 · Decided January 26, 2007

SUMMARY

The Louisiana Supreme Court considered whether La. Rev. Stat. § 15:308 authorized courts to resentence defendants serving final life sentences under former heroin-distribution penalties after enactment of more lenient sentencing provisions. The court held that reducing final sentences would effectively constitute commutation, a power constitutionally assigned to the executive branch, and that eligible offenders must instead apply to the Louisiana Risk Review Panel. The court affirmed the First Circuit's decision in *State v. Dick*, reversed the Fourth Circuit's decision in *State v. Smith*, and reinstated both defendants' original life sentences.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Knoll, Justice
JURISDICTION	Louisiana
DECIDED	January 26, 2007
DOCKET	Nos. 2006-KP-2223, 2006-KK-2226
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Louisiana Supreme Court granted writs in two consolidated criminal cases arising from conflicting court-of-appeal rulings concerning whether La. Rev. Stat. 15:308 authorized trial courts to resentence defendants whose final life sentences were imposed under the pre-2001 version of La. Rev. Stat. 40:966(B)(1).
STANDARD OF REVIEW	De novo statutory interpretation and review of the courts' authority to correct or modify final criminal sentences.
PRECEDENTIAL VALUE	published precedential Louisiana Supreme Court opinion
PARTIES	State of Louisiana, Melvin Smith v. Wesley Dick, State of Louisiana

TOPICS

- statutory interpretation
- legislative history
- sentencing
- separation of powers
- post-conviction relief

PRACTICE AREAS

criminal law

criminal sentencing

statutory interpretation

separation of powers

post-conviction relief

QUESTIONS PRESENTED

1. Whether La. Rev. Stat. 15:308 authorizes a sentencing court to vacate and resentence a defendant after the defendant's original sentence has become final.
2. Whether application to the Louisiana Risk Review Panel is the exclusive remedy for offenders covered by La. Rev. Stat. 15:308.
3. Whether resentencing under the later ameliorative penalty provisions would constitute a commutation of a final sentence reserved to the executive branch under the Louisiana Constitution.

HOLDINGS

1. La. Rev. Stat. 15:308 does not authorize sentencing courts to vacate or resentence offenders whose convictions and sentences became final under the pre-amendment penalty provisions.
2. For offenders covered by La. Rev. Stat. 15:308, application to the Louisiana Risk Review Panel is the exclusive avenue for seeking retroactive relief from a final sentence; the trial court may not provide that relief by resentencing.

KEY QUOTATIONS

“Resentencing these offenders in order to retroactively apply the more lenient penalty provisions to offenders whose convictions and sentences are final is, in effect, a commutation of a valid and final sentence, which falls within the executive branch of government, not the judicial branch.” (126)

“The legislature did not intend, nor does La.Rev.Stat. 15:308 provide, that these offenders may seek resentencing in the courts.” (133)

FACTUAL BACKGROUND

Wesley Dick was convicted of distributing heroin based on conduct in May 1999 and received a mandatory life sentence in January 2001. Melvin Smith was convicted of possessing heroin with intent to distribute based on a 1977 offense and likewise received a mandatory life sentence. After the Legislature reduced the applicable heroin penalties and enacted La. Rev. Stat. 15:308, both defendants sought retroactive application of the more lenient provisions, and their trial courts resentenced them to shorter terms.

PROCEDURAL HISTORY

Wesley Dick and Melvin Smith were each convicted of heroin offenses and sentenced to mandatory life imprisonment. Their respective trial courts vacated the final sentences and imposed shorter sentences under the later, more lenient penalty provisions. The First Circuit reversed Dick's resentencing and reinstated his life sentence, while the Fourth Circuit denied the State's writ concerning Smith. The Louisiana Supreme Court consolidated the cases, affirmed the First Circuit, reversed the Fourth Circuit, reinstated both original life sentences, and remanded for execution of those sentences.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

For Dick, the First Circuit judgment was affirmed and the matter was remanded to the district court for execution of the original life sentence. For Smith, the Fourth Circuit decision was reversed, his original life sentence was reinstated, and the case was remanded to the district court for execution of sentence.

CASES CITED

- State v. Dick, 06-1381 (La. App. 1 Cir. 7/20/06), 943 So. 2d 389
- State v. Smith, 06-1212 (La. App. 4 Cir. 9/8/06)
- State v. Sugasti, 01-3407 (La. 6/21/02), 820 So. 2d 518
- State v. Wright, 384 So. 2d 399, 401 (La. 1980)
- State v. Narcisse, 426 So. 2d 118, 130-131 (La. 1983), cert. denied sub nom. Narcisse v. Louisiana, 464 U.S. 865 (1983)
- Theriot v. Midland Risk Insurance Co., 95-2895 (La. 5/20/97), 694 So. 2d 184, 186
- Succession of Boyter, 99-0761 (La. 1/7/00), 756 So. 2d 1122, 1128-1129
- State v. Piazza, 596 So. 2d 817, 819 (La. 1992)
- Cat's Meow, Inc. v. City of New Orleans through Department of Finance, 98-0601 (La. 10/20/98), 720 So. 2d 1186, 1198
- State v. Johnson, 03-2993 (La. 10/19/04), 884 So. 2d 568, 575-577
- Fontenot v. Reddell Vidrine Water District, 02-0439 (La. 1/14/03), 836 So. 2d 14, 20
- State v. Campbell, 03-3035 (La. 7/6/04), 877 So. 2d 112, 117
- State v. Rome, 96-0991 (La. 7/1/97), 696 So. 2d 976, 978
- Bosworth v. Whitley, 627 So. 2d 629, 632 (La. 1993)
- People v. Herrera, 183 Colo. 155, 516 P.2d 626, 628-629 (1973)
- State v. Mayeux, 01-3195 (La. 6/21/02), 820 So. 2d 526
- State v. Chase, 329 So. 2d 434, 437 (La. 1976)