

SUPREME COURT OF MISSOURI

State of Missouri v. Gail L. Daws

311 S.W.3d 806 (Mo. banc 2010) · No. SC 90444 · Decided May 25, 2010

SUMMARY

The Supreme Court of Missouri held that a prior guilty plea to failure to yield to an emergency vehicle did not bar a subsequent prosecution for felony resisting arrest under the Double Jeopardy Clause. Applying the Blockburger same-elements test, the court concluded that failure to yield was not a lesser-included offense of resisting arrest because each offense contained elements not required by the other. The court reversed the dismissal of the resisting arrest charge and remanded the case.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Richard B. Teitelman
JURISDICTION	Missouri
DECIDED	May 25, 2010
DOCKET	SC 90444
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed the circuit court's dismissal of a felony resisting-arrest charge on double-jeopardy grounds after Daws had pleaded guilty to failure to yield to an emergency vehicle.
STANDARD OF REVIEW	Double-jeopardy claims are reviewed de novo.
PRECEDENTIAL VALUE	Published Missouri Supreme Court en banc opinion; precedential.
PARTIES	State of Missouri v. Gail L. Daws

TOPICS

- double jeopardy
- criminal procedure
- statutory interpretation
- appellate procedure
- constitutional law

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether failure to yield to an emergency vehicle under section 304.022 is a lesser-included offense of resisting arrest under section 575.150.
2. Whether the Double Jeopardy Clause barred the State from prosecuting Daws for resisting arrest after her guilty plea to failure to yield.

HOLDINGS

1. Failure to yield to an emergency vehicle under section 304.022 is not a lesser-included offense of resisting arrest under section 575.150 because each offense contains elements the other does not.
2. The statutory presumption that a person is fleeing a vehicle stop after seeing emergency lights or hearing an audible signal is an evidentiary rule, not an element of resisting arrest, and therefore does not establish a double-jeopardy bar.

KEY QUOTATIONS

“A comparison of the elements of the two crimes demonstrates that failure to yield is not a lesser-included offense of resisting arrest.” (809)

“The presumption of flight is not an element of the offense. The presumption is simply an evidentiary rule to assist the state in proving the elements of the defendant's knowledge that a law enforcement officer is attempting to stop the individual and the defendant's intent to evade that law enforcement officer.” (809)

FACTUAL BACKGROUND

Police officers activated their emergency sirens and signaled Daws to stop on January 20, 2008, but she fled at speeds exceeding 100 miles per hour and disregarded traffic signals. After she stopped, she was cited for failing to yield to an emergency vehicle and pleaded guilty to that misdemeanor. The State later charged her with felony resisting arrest, alleging that she resisted a lawful stop by fleeing in a manner creating a substantial risk of serious physical injury or death.

PROCEDURAL HISTORY

Daws failed to yield when police attempted a traffic stop and later pleaded guilty to failure to yield to an emergency vehicle under section 304.022. The State subsequently charged her with felony resisting arrest under section 575.150. The circuit court dismissed the resisting-arrest charge, concluding that the successive prosecution violated double jeopardy. The Supreme Court of Missouri reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings on the resisting-arrest charge.

CASES CITED

- State v. Flenoy, 968 S.W.2d 141, 143 (Mo. banc 1998)
- State v. Kamaka, 277 S.W.3d 807, 810 (Mo. App. 2009)
- United States v. Dixon, 509 U.S. 688, 704 (1993)
- State v. Burns, 877 S.W.2d 111, 112 (Mo. banc 1994)
- Brown v. Ohio, 432 U.S. 161, 169 (1977)
- State v. Clark, 263 S.W.3d 666, 673-674 (Mo. App. 2008)

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