

SUPREME COURT OF WASHINGTON

State v. Duncalf

177 Wash. 2d 289 (2013) · Decided May 2, 2013

SUMMARY

The Washington Supreme Court affirmed an exceptional sentence imposed after Richard Duncalf was convicted of second degree assault and the jury found that the victim’s injuries substantially exceeded the bodily harm necessary for that offense. The court held that the aggravating factor under RCW 9.94A.535(3)(y) could apply without a separate finding of great bodily harm and that the jury’s finding satisfied the Sixth Amendment. The court also held that the aggravating factor was not unconstitutionally vague as applied to Duncalf’s conduct.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Johnson, J.; Madsen, C.J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.; Stephens, J.; Wiggins, J.; Chambers, J. Pro Tem.; Seinfeld, J. Pro Tem.
JURISDICTION	Washington
DECIDED	May 2, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Duncalf appealed an exceptional sentence imposed after his conviction for second degree assault and a jury finding that the victim's injuries substantially exceeded the harm necessary to satisfy the offense. The Washington Court of Appeals affirmed, and the Washington Supreme Court granted review and affirmed.
STANDARD OF REVIEW	The court reviewed the legality of the exceptional sentence and the vagueness challenge de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Washington
PARTIES	Richard Duncalf v. State of Washington

TOPICS

- sentencing
- void for vagueness
- due process
- statutory interpretation
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the statutory aggravating factor permitting an exceptional sentence when a victim's injuries substantially exceed the level of bodily harm necessary to satisfy the offense may apply to a conviction for second degree assault.
2. Whether the substantially-exceed aggravating factor in RCW 9.94A.535(3)(y) is unconstitutionally vague as applied to Duncalf.

HOLDINGS

1. The substantially-exceed aggravating factor may be applied to a second degree assault conviction without a separate jury finding that the defendant inflicted great bodily harm. A jury finding that the victim's injuries substantially exceeded the substantial bodily harm necessary to establish second degree assault was sufficient to authorize the exceptional sentence.
2. RCW 9.94A.535(3)(y) is not unconstitutionally vague as applied to Duncalf's conduct.

KEY QUOTATIONS

“Thus, the statute ‘requires only that the injuries ‘substantially exceed,’ rather than a requirement to meet, a higher category of harm.’” (at 296)

“This was the only finding required to authorize the trial court’s imposition of the exceptional sentence. Thus, Blakely is satisfied.” (at 296)

“The statutory definition of ‘substantial bodily harm’ offers a sufficiently objective definition for jurors to compare to a particular victim’s injuries and apply the ‘substantially exceeds’ standard of the aggravating factor.” (at 298)

FACTUAL BACKGROUND

Duncalf assaulted his roommate, James Ketchum, after mistakenly believing Ketchum's sexual partner was Duncalf's girlfriend. Duncalf punched Ketchum repeatedly, causing unconsciousness, multiple fractures, a punctured lung membrane, severe jaw injuries requiring surgery and wiring, and likely permanent nerve damage and impairment to Ketchum's lower jaw and lip. A jury acquitted Duncalf of first degree assault but convicted him of second degree assault and found that the injuries substantially exceeded the harm necessary for that offense.

PROCEDURAL HISTORY

Duncalf was acquitted of first degree assault but convicted of second degree assault. The jury also found beyond a reasonable doubt that the victim's injuries substantially exceeded the level of bodily harm necessary for second degree assault. The trial court imposed an exceptional sentence of 100 months. The Court of Appeals affirmed, and the Supreme Court of Washington affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- State v. Duncalf, 164 Wn. App. 900, 267 P.3d 414 (2011)
- State v. Stubbs, 170 Wn.2d 117, 240 P.3d 143 (2010)
- Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)
- State v. Pappas, 176 Wn.2d 188, 289 P.3d 634 (2012)
- State v. Baldwin, 150 Wn.2d 448, 78 P.3d 1005 (2003)
- State v. Eckblad, 152 Wn.2d 515, 518, 98 P.3d 1184 (2004)
- City of Spokane v. Douglass, 115 Wn.2d 171, 178, 795 P.2d 693 (1990)
- State v. Branch, 129 Wn.2d 635, 648, 919 P.2d 1228 (1996)
- Holder v. Humanitarian Law Project, 561 U.S. 1, 18-19, 130 S. Ct. 2705, 177 L. Ed. 2d 355 (2010)
- Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489, 495, 102 S. Ct. 1186, 71 L. Ed. 2d 362 (1982)
- State v. Worrell, 111 Wn.2d 537, 544, 761 P.2d 56 (1988)
- State v. Saunders, 132 Wn. App. 592, 599, 132 P.3d 743 (2006)
- State v. Gordon, 172 Wn.2d 671, 260 P.3d 884 (2011)
- Apprendi v. New Jersey, 530 U.S. 466, 490, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000)