

SUPREME COURT OF OREGON

State v. Reinke

354 Or. 98 (2013) · No. SC S059760 · Decided September 12, 2013

SUMMARY

The Oregon Supreme Court held that Article VII (Amended), section 5, and Article I, section 11, of the Oregon Constitution do not require a grand jury to find and plead sentence-enhancement facts supporting a dangerous-offender sentence. The court reaffirmed its prior decision in *State v. Wagner* and related cases, concluding that the indictment need only allege the elements of the underlying offense. The court affirmed the Court of Appeals and the circuit court judgment.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Kistler, J.; Balmer, Chief Justice; Kistler, Justice; Walters, Justice; Linder, Justice; Landau, Justice
JURISDICTION	Oregon
DECIDED	September 12, 2013
DOCKET	SC S059760
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant sought review of a Court of Appeals decision affirming a circuit-court judgment that imposed a dangerous-offender sentence after his conviction for second-degree kidnapping.
STANDARD OF REVIEW	The court independently reviewed the legal and constitutional question whether Oregon's Constitution requires grand-jury findings and indictment allegations of sentence-enhancement facts.
PRECEDENTIAL VALUE	Published, precedential Oregon Supreme Court opinion
PARTIES	Leonard Lloyd Reinke v. State of Oregon

TOPICS

- grand jury
- sentencing
- criminal procedure
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- constitutional law
- sentencing
- appellate law

QUESTIONS PRESENTED

1. Whether Article VII (Amended), section 5, of the Oregon Constitution requires a grand jury to find and an indictment to plead facts supporting a dangerous-offender sentence.
2. Whether the Notice Clause of Article I, section 11, of the Oregon Constitution requires sentence-enhancement facts to be alleged in the indictment.
3. Whether the Jury Trial Clause of Article I, section 11, requires the grand jury to find and the indictment to plead sentence-enhancement facts.

HOLDINGS

1. Article VII (Amended), section 5, requires the grand jury to find and plead only the elements of the legislatively defined felony; it does not require the grand jury to find or the indictment to plead facts that authorize an enhanced sentence.
2. The Notice Clause of Article I, section 11, does not require an indictment to allege sentence-enhancement facts that are not elements of the charged crime.
3. The Jury Trial Clause guarantees a jury trial concerning facts that the jury must find, but it does not require the grand jury to find or the indictment to plead sentence-enhancement facts.

KEY QUOTATIONS

“Considering the text, context, and legislative history of Article VII (Amended), section 5, we conclude that section 5 requires the grand jury to find and plead only the elements of the crime as defined by the legislature.” (354 Or. at 113)

“We hold that the Notice Clause of Article I, section 11, does not require that an indictment allege sentence enhancement facts.” (354 Or. at 121-22)

“We conclude that neither Article VII (Amended), section 5, nor the two clauses in Article I, section 11, on which defendant relies required the grand jury to find and plead sentence enhancement facts.” (354 Or. at 124)

FACTUAL BACKGROUND

Reinke kidnapped a victim in an effort to persuade her not to testify against one of his friends, whom the victim accused of terrorizing, raping, and sodomizing her. The grand jury indicted him, among other charges, for second-degree kidnapping. Before trial, the state gave written notice that it would seek a dangerous-offender sentence; after Reinke waived a jury trial and was convicted, the trial court found the statutory sentence-enhancement facts beyond a reasonable doubt and imposed the enhanced sentence.

PROCEDURAL HISTORY

A Multnomah County Circuit Court convicted Reinke of second-degree kidnapping and other crimes and sentenced him as a dangerous offender to slightly more than 23 years, or 280 months, based on sentence-enhancement findings made at sentencing. The Court of Appeals affirmed in a per curiam opinion. The Oregon Supreme Court allowed review and affirmed both the Court of Appeals decision and the circuit-court judgment.

DISPOSITION

affirmed

CASES CITED

- State v. Reinke, 245 Or. App. 33, 260 P.3d 820 (2011)
- State v. Wagner, 305 Or. 115, 171-72, 752 P.2d 1136 (1988), vacated and remanded on other grounds, 492 U.S. 914 (1989)
- Almendarez-Torres v. United States, 523 U.S. 224, 228, 242-43 (1998)
- Apprendi v. New Jersey, 530 U.S. 466, 477 n. 3, 490 (2000)
- Ring v. Arizona, 536 U.S. 584 (2002)
- State v. Cox, 337 Or. 477, 498-500, 98 P.3d 1103 (2004)
- State v. Sawatzky, 339 Or. 689, 698, 125 P.3d 722 (2005)
- Blakely v. Washington, 542 U.S. 296 (2004)
- State v. Johnson, 340 Or. 319, 352, 131 P.3d 173 (2006)
- State v. Oatney, 335 Or. 276, 292-97, 66 P.3d 475 (2003), cert. denied, 540 U.S. 1151 (2004)
- State v. Compton, 333 Or. 274, 295-96, 39 P.3d 833 (2002), cert. denied, 537 U.S. 841 (2002)
- State v. Harrell, 353 Or. 247, 254-55, 297 P.3d 461 (2013)
- Ecumenical Ministries v. Oregon State Lottery Commission, 318 Or. 551, 559-60, 871 P.2d 106 (1994)
- Klamath Irrigation District v. United States, 348 Or. 15, 23, 227 P.3d 1145 (2010)
- State v. Hicks, 213 Or. 619, 640-41, 325 P.2d 794 (1958)
- Mastriano v. Board of Parole, 342 Or. 684, 693, 159 P.3d 1151 (2007)
- State v. Waterhouse, 209 Or. 424, 429-31, 434, 307 P.2d 327 (1957)
- Ross's Case, 19 Mass. 165, 171 (1824)
- State v. Smith, 128 Or. 515, 522-23, 273 P. 323 (1929)
- People v. Gowasky, 244 N.Y. 451, 155 N.E. 737 (1929)
- Graham v. West Virginia, 224 U.S. 616, 625-29 (1912)
- State v. Newlin, 92 Or. 589, 182 P. 133 (1919); State v. Newlin, 92 Or. 597, 182 P. 135 (1919)
- State v. Blacker, 234 Or. 131, 135-36, 380 P.2d 789 (1963)
- State v. Hoffman, 236 Or. 98, 104-07, 385 P.2d 741 (1963)
- Hurtado v. California, 110 U.S. 516, 534-35 (1884)
- State v. Smith, 182 Or. 497, 501-02, 507-09, 188 P.2d 998 (1948)
- Commonwealth v. Freelove, 150 Mass. 66, 22 N.E. 435 (1889)
- State v. Smith, 301 Or. 681, 697, 725 P.2d 894 (1986) (plurality)
- In re Fadeley, 310 Or. 548, 560, 802 P.2d 31 (1990)
- Coalition for Equitable School Funding v. State of Oregon, 311 Or. 300, 309, 811 P.2d 116 (1991)
- State v. Ice, 343 Or. 248, 257-61, 170 P.3d 1049 (2007), rev'd on other grounds, 555 U.S. 160 (2009)

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