

SUPREME COURT OF OREGON

State v. Vasquez, 336 Or. 598

88 P.3d 271 (2004) · No. SC S49148 · Decided April 15, 2004

SUMMARY

The Oregon Supreme Court held that the 1987 filing of a complainant’s information did not trigger the defendant’s right to have justice administered without delay under Article I, section 10, of the Oregon Constitution. Because the information was insufficient to commence a felony prosecution without an indictment or constitutionally prescribed alternative procedure, the delay before indictment did not violate the Oregon or federal speedy-trial guarantees. The court reversed the Court of Appeals and affirmed the circuit court’s judgment.

CASE DETAILS

|                       |                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Oregon                                                                                                                                                                                          |
| WRITING FOR THE COURT | Gillette, J.; Carson, Chief Justice; Gillette, Justice; Durham, Justice; Riggs, Justice; De Muniz, Justice; Balmer, Justice                                                                                      |
| JURISDICTION          | Oregon                                                                                                                                                                                                           |
| DECIDED               | April 15, 2004                                                                                                                                                                                                   |
| DOCKET                | SC S49148                                                                                                                                                                                                        |
| DISPOSITION           | reversed                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | The State sought review of the Oregon Court of Appeals' reversal of defendant's murder conviction and its instruction that the indictment be dismissed with prejudice on state and federal speedy-trial grounds. |
| STANDARD OF REVIEW    | De novo review of constitutional interpretation and the legal question whether the undisputed facts established a speedy-trial violation.                                                                        |
| PRECEDENTIAL VALUE    | Published, precedential Oregon Supreme Court opinion                                                                                                                                                             |
| PARTIES               | State of Oregon v. Daniel Orozco Vasquez, aka David V. Orozco                                                                                                                                                    |

TOPICS

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

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure

## QUESTIONS PRESENTED

1. Whether the 1987 filing of a complainant's information in district court triggered defendant's right under Article I, section 10, of the Oregon Constitution to have justice administered without delay.
2. Whether the 11-year period between the 1987 complainant's information and the 1997 indictment violated defendant's Sixth Amendment right to a speedy trial.

## HOLDINGS

1. The Article I, section 10, guarantee that justice be administered without delay attaches when an official action is sufficient, standing alone, to commence a prosecution—ordinarily an indictment or a constitutionally authorized alternative—not merely when a complainant's information is filed.
2. The 1987 complainant's information did not trigger defendant's Article I, section 10, right to have justice administered without delay, so the 11-year period beginning with that filing did not establish a state constitutional speedy-trial violation.
3. The 1987 filing did not trigger defendant's Sixth Amendment speedy-trial protection because no indictment was outstanding and defendant was not arrested or held to answer on the Oregon charge.

## KEY QUOTATIONS

*“Based on the foregoing, we conclude that an official action that is sufficient, standing alone, to commence a prosecution starts the running of the “without delay” clock.”* (88 P.3d at 278)

*“We hold that the 1987 filing of the complainant's information was not an event that triggered defendant's right to have justice administered “without delay” under Article I, section 10, of the Oregon Constitution.”* (88 P.3d at 279)

*“The decision of the Court of Appeals is reversed. The judgment of the circuit court is affirmed.”* (88 P.3d at 279)

## FACTUAL BACKGROUND

A man named Torres was shot and killed in Umatilla County in September 1987, and investigators suspected defendant. The police filed a complainant's information in district court and obtained an arrest warrant, but defendant had fled to California and was never arrested on that warrant. Oregon authorities knew by 1988 that defendant was incarcerated in California but took no action until 1997, when they obtained an indictment after defendant pleaded guilty to a separate Washington murder; meanwhile, a police-station fire destroyed substantial evidence relating to the Torres homicide.

## PROCEDURAL HISTORY

A complainant's information and arrest-warrant affidavit were filed in 1987, but defendant was not arrested on the Oregon warrant. After defendant was later incarcerated in California and Washington, Oregon obtained an indictment in 1997 and dismissed the earlier information. Defendant was convicted of murder in the circuit court in December 1998. The Court of Appeals reversed and ordered dismissal with prejudice; the Oregon Supreme Court reversed that decision and affirmed the circuit court's judgment.

## DISPOSITION

reversed

## CASES CITED

- Priest v. Pearce, 314 Or. 411, 840 P.2d 65 (1992)
- State v. Vawter, 236 Or. 85, 386 P.2d 915 (1963)
- State v. Serrell, 265 Or. 216, 507 P.2d 1405 (1973)
- State v. Harberts, 331 Or. 72, 11 P.3d 641 (2000)
- State v. Clark, 291 Or. 231, 630 P.2d 810 (1981)
- United States v. Loud Hawk, 474 U.S. 302, 106 S. Ct. 648, 88 L. Ed. 2d 640 (1986)
- United States v. Marion, 404 U.S. 307, 92 S. Ct. 455, 30 L. Ed. 2d 468 (1971)
- State v. Kennedy, 295 Or. 260, 666 P.2d 1316 (1983)
- State v. Vasquez, 177 Or. App. 477, 34 P.3d 1188 (2001)