

SUPREME COURT OF WASHINGTON

State v. Eckblad, 152 Wash. 2d 515

98 P.3d 1184 (2004) · Decided October 14, 2004

SUMMARY

The Washington Supreme Court considered whether Washington's seat belt statute, RCW 46.61.688, was unconstitutionally vague. The court held that the statute was not facially vague or vague as applied to Trevor Eckblad's case, reversed the suppression order, and remanded for further proceedings. The court cautioned that the statute could potentially be vague as applied in a different case involving a reasonable belief that a vehicle or occupants were exempt.

OPINION

CHAMBERS, J.

Chambers, J. We must decide whether RCW 46.61.688 is unconstitutionally void for vagueness. Washington's seat belt law is hardly a model of clarity; however, we conclude that the statute is not facially void, and Trevor Eckblad does not establish it is void as applied to the facts of his case. BACKGROUND Washington State has required most drivers and passengers of motor vehicles to wear seat belts since 1986.

Former RCW 46.61.688 (1986). Recently, the State has intensified its efforts to increase seat belt use, and the failure to wear one is now a primary offense. RCW 46.61.688. While drivers and passengers are usually required to wear seat belts, Washington has exempted some categories of vehicles (generally, vehicles not required to have seat belts under federal law) and some types of uses (such as rural postal carriers, rural newspaper carriers, utility meter readers, refuge and recycling collectors, and prisoner transports) from the statute.

RCW 46.61.688; 49 C.F.R. § 571.208; WAC 204-41-030 through -070. In February 2003, a state patrol officer saw a seat belt dangling in the window of a traveling 1982 pickup truck, *518near the head of a clearly unseat-belted passenger.

The officer stopped the vehicle, spoke with the occupants, and arrested the unseat-belted passenger on two unrelated warrants. The officer also noticed the smell of alcohol and marijuana wafting from the cab. Eckblad, one of the passengers, admitted the marijuana was his. He was arrested, and a search incident to arrest unearthed a 9 millimeter handgun, a loaded magazine, and a box of ammunition in a pillow case.

Eckblad informed the officer that the weapon and ammunition were also his. It unfolded that Eckblad had prior convictions for assault and larceny, and he was ultimately charged with being a

felon in possession of a firearm.

Because these charges were precipitated by the failure of a fellow passenger to wear a seat belt, Eckblad moved to suppress the evidence as the fruit of an illegal stop. The trial judge held that RCW 46.61.688 is unconstitutionally vague, granted the motion to suppress, and dismissed the case.

We granted direct review. ANALYSIS We review the constitutionality of a statute de novo. *Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103, 114, 937 P.2d 154, 943 P.2d 1358 (1997). Vagueness challenges “are evaluated in light of the particular facts of each case,” unless the First Amendment is implicated. *City of Bremerton v. Spears*, 134 Wn.2d 141, 159, 949 P.2d 347 (1998) (citing *City of Spokane v. Douglass*, 115 Wn.2d 171, 182, 795 P.2d 693 (1990)).

No free speech issue is raised here. A statute is vague if either it fails to define the offense with sufficient precision that a person of ordinary intelligence can understand it, or if it does not provide standards sufficiently specific to prevent arbitrary enforcement. *Douglass*, 115 Wn.2d at 178. Arbitrary enforcement is not at issue here; instead, we decide only whether RCW *51946.61.688 is sufficiently precise for a person of ordinary intelligence to understand it.

The statute states in relevant part: Safety belts, use required — Penalties—Exemptions. (1) [Definitions]. (2) This section only applies to motor vehicles that meet the manual seat belt safety standards as set forth in federal motor vehicle safety standard 208 and to neighborhood electric vehicles. This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required by federal motor vehicle safety standard 208 are occupied.

(3) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner. (8) The state patrol may adopt rules exempting operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops from the requirement of wearing safety belts.

RCW 46.61.688 (emphasis added). Essentially, Eckblad argues that the statute is vague because it incorporates detailed standards that are difficult to find. But this does not overcome the strong presumption of constitutionality. *Douglass*, 115 Wn.2d at 177.

First, specificity does not render a statute vague. E.g., *Pennsylvania v. Hull*, 705 A.2d 911, 913 (Pa. Super. Ct. 1998) (statute requiring motorcyclists to wear helmets not unconstitutionally vague merely because the helmet requirements were specific and technical).

Second, compliance with the bedrock requirement of the law — that drivers and passengers in motor vehicles wear seat belts unless exempted — does not turn on the scope of the exceptions. Cf. *San Filippo v. Bongiovanni*, 961 F.2d 1125, 1135 (3d Cir. 1992) (void for vagueness doctrine

exists to require statutes *520to put ordinary persons on notice of what conduct is prohibited).¹ While seat belt laws have not yet been challenged across the nation as unconstitutionally vague, the closely related regime of motorcycle helmet laws has been challenged in many of our sister states.

See generally Alan S. Wasserstrom, Annotation, Validity of Traffic Regulations Requiring Motorcyclists to Wear Helmets or other Protective Headgear, 72 A.L.R.5th 607 (1999) (collecting cases). Courts have almost uniformly found that these statutes are not unconstitutionally vague, so long as the motorcyclist is put on notice of the general requirement of the law and given a meaningful opportunity to comply.

See *ABATE of Ga., Inc. v. Georgia*, 137 F. Supp. 2d 1349, 1355 (N.D. Ga.) (rejecting vagueness challenge “because the statute clearly proscribes some conduct, such as riding a motorcycle without any protective head-covering whatsoever”), *aff’d*, 264 F.3d 1315 (11th Cir. 2001); *Kingery v. Chapple*, 504 P.2d 831, 836 (Alaska 1972); *Buhl v. Hannigan*, 16 Cal. App.

4th 1612, 1622, 20 Cal. Rptr. 2d 740 (1993); *State v. Eitel*, 227 So. 2d 489, 491 (Fla. 1969); *State v. Albertson*, 93 Idaho 640, 642, 470 P.2d 300 (1970); *Everhardt v. City of New Orleans*, 253 La. 285, 294-95, 217 So. 2d 400 (1968); *Commonwealth v. Guest*, 12 Mass. App. Ct. 941, 941-42, 425 N.E.2d 779 (1981); see also Wasserstrom, *supra*, § 7, at 643 (listing eight more states that have reached same conclusion); but *521see *People v. Smallwood*, 52 Misc.

2d 1027, 1030, 277 N.Y.S.2d 429 (1967) (holding that statute requiring the wearing of a helmet approved by a state official was too vague); but cf. *People v. Schmidt*, 54 Misc. 2d 702, 703, 283 N.Y.S.2d 290 (1967) (reaching opposite conclusion).

We have also been called upon to determine whether a motorcycle helmet law that depends, to some extent, on federal standards is unconstitutionally vague. See *Spears*, 134 Wn.2d 141. We concluded the helmet statute was not vague, even though the ordinary citizen might have difficulty finding and comprehending the federal regulations, in large part because the ordinary citizen was not required to master the federal regulations.

Instead, the motorcyclist was merely obligated to wear a helmet labeled by its manufacturer as complying with department of transportation regulations. *Spears*, 134 Wn.2d at 155-56 (quoting WAC 204-10-040); accord *State v. Maxwell*, 74 Wn. App. 688, 878 P.2d 1220 (1994)² (finding earlier version of motorcycle helmet regulations vague as applied to motorcyclists who were wearing noncompliant helmets because of the significant burden on the motorcyclist to determine whether a helmet complied under difficult federal regulations).

Similarly, we conclude that the statute is not vague facially or as applied to the facts of this case. The ordinary citizen reading this statute is put on notice that there is a general obligation to wear a seat belt. RCW 46.61.688(3).

The statute puts the reader on notice that whether an exception applies to a particular vehicle requires a more searching inquiry. Overwhelmingly, courts considering similar challenges to similar statutes have upheld them against vagueness challenges. See generally *Wasserstrom*, supra, § 7, at 643 (collecting cases). Eckblad has not shown that RCW 46.61.688 is vague facially or as applied in his case.

We caution that we do not hold that the statute is immune from a future due process challenge. It may be ⁵²²unconstitutionally vague as applied to a different case. Cf. *Maxwell*, 74 Wn. App. at 691-93 (holding that similar statute was vague as applied to three motorcyclists who arguably had attempted to comply with the relevant regulations).

We do not reach the merits of a vagueness claim where a driver or passenger reasonably believes that a vehicle or its occupants are exempted by state or federal regulation from the seat belt requirements. Eckblad does not contend he believed the 1982 Chevrolet pickup truck in which he was riding was exempted from the mandatory seat belt law, and therefore such a case is not before us.³ CONCLUSION RCW 46.61.688 is not vague facially or as applied to the facts of this case.

Accordingly, we reverse and remand for further proceedings consistent with this opinion. Johnson, Ireland, Bridge, Owens, and Fairhurst, JJ., concur. Madsen, J., concurs in the result. The dissent contends that we mischaracterize the statute by not reading it in a strict linear fashion.

We disagree that this is necessary. An ordinary, reasonable reader would read the entire statute and would recognize that the legislature intended that subsections (3) and (4) be the heart of the statute. These subsections require every person driving or riding in a motor vehicle be seat-belted or in a child safety seat.

The reasonable reader would then realize that the statute created several exceptions, including, functionally, subsection (2)'s limitation to vehicles required by federal law to have seat belts. We note that many states have structured their statutes similarly. E.g., Colo. Rev. Stat. § 42-4-237 ("Unless exempted pursuant to subsection (3) of this section, every driver of and every front seat passenger in a motor vehicle equipped with a safety belt system shall wear a fastened safety belt while the motor vehicle is being operated on a street or highway in this state."); see also Cal. Veh.

Code § 27315; Mont. Code Ann. § 61-13-103. Proper respect to the people's legislature is more important than constructional formality. Cf. *State v. Dixon*, 78 Wn.2d 796, 804, 479 P.2d 931 (1971) (this court will give a statute a constitutional construction, if possible).

The State challenges the Court of Appeals' jurisdiction to have heard *Maxwell*. Given our resolution of this case, we decline to reach this issue. We note in passing the State's argument that "federal standard 208" is easily found through an Internet search and therefore, more available to persons of ordinary intelligence than the motorcycle regulations at issue in *Maxwell*.

However, the Internet teems with information both accurate and inaccurate which can and does mislead users. E.g., Joe McDonald, China Paper Runs U.S. Satire as News, AP Online, June 8, 2002, available at 2002 WL 22577471 (reporting that a Chinese news service had mistakenly reported that the United States Congress, in the tradition of several sports teams, was threatening to move from Washington D.C. unless a new Capitol building was built, relying on the satirical online paper www.theonion.com).

We decline to adjust the vagueness analysis to take the Internet into account. We also decline to reach whether a good faith exception to the exclusionary rule is potentially available, as this issue was not raised below and is rendered moot by our disposition of the substantive issue. See RAP 2.5(a).