

SUPREME COURT OF WASHINGTON

State v. Christensen

153 Wash. 2d 186 (2004) · Decided December 9, 2004

SUMMARY

The Washington Supreme Court held that a conversation between the defendant and his girlfriend was a private communication under Washington's all-party-consent privacy act. It further held that the base unit of a cordless telephone, including its speakerphone function, was a device designed to transmit under RCW 9.73.030. Because the mother's testimony about the intercepted conversation was improperly admitted and the error was prejudicial, the court reversed the conviction and remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Chambers, J.; Alexander, C.J.; Johnson, J.; Madsen, J.; Sanders, J.; Ireland, J.; Bridge, J.; Owens, J.; Fairhurst, J.
JURISDICTION	Washington
DECIDED	December 9, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought review of a Court of Appeals decision affirming Christensen's robbery conviction and the trial court's admission of testimony about a surreptitiously overheard telephone conversation.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. Whether a communication is private is ordinarily a question of fact but may be decided as a question of law when the facts are undisputed. The court applied a prejudicial-error standard under which admission of evidence obtained in violation of the privacy act is prejudicial unless it is reasonably probable that the evidence did not materially affect the trial outcome.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State v. Oliver Christensen

TOPICS

- criminal procedure
- suppression of evidence
- evidence
- statutory interpretation

PRACTICE AREAS

criminal procedure

evidence

privacy and electronic communications

QUESTIONS PRESENTED

1. Whether Christensen and Lacey's telephone conversation was a private communication under Washington's privacy act.
2. Whether the base unit of a cordless telephone, including its speakerphone component, was a device designed to transmit under RCW 9.73.030.
3. Whether admitting Mrs. Dixon's testimony about the intercepted conversation was harmless error.

HOLDINGS

1. The conversation between Christensen and Lacey was a private communication because both manifested a subjective intent that it be private and their expectation of privacy was reasonable.
2. The base unit of the cordless telephone, including its speakerphone component, was a device designed to transmit within the meaning of Washington's privacy act.
3. Admission of Mrs. Dixon's testimony was prejudicial error because it was reasonably likely to have materially affected the outcome of the trial.

KEY QUOTATIONS

"A communication is private (1) when parties manifest a subjective intention that it be private and (2) where that expectation is reasonable." (193)

"The act, however, makes no such distinction." (197)

"For purposes of the privacy act, the word "transmit" means to disseminate or communicate." (197)

"Based on the plain meaning of the term "transmit," we hold that the speakerphone component of the base unit of a cordless telephone is a device designed to transmit under the privacy act." (201)

FACTUAL BACKGROUND

Two young men robbed an elderly woman in Friday Harbor, and Sheriff Cumming suspected 17-year-old Oliver Christensen of involvement. After Christensen telephoned his girlfriend, Lacey Dixon, Lacey's mother activated the speakerphone on the cordless telephone's base unit and secretly listened to the conversation while Lacey and Christensen were unaware of the interception. Mrs. Dixon testified about the conversation at Christensen's trial, and Christensen was convicted of second degree robbery; her testimony was considered the most credible evidence linking him to the crime.

PROCEDURAL HISTORY

After a jury convicted Christensen of second degree robbery, the Court of Appeals affirmed the trial court's admission of Mrs. Dixon's testimony concerning a conversation she overheard through the speakerphone

function of a cordless telephone. The Washington Supreme Court granted review, reversed, and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded for a new trial consistent with the opinion.

CASES CITED

- State v. Townsend, 147 Wn.2d 666, 57 P.3d 255 (2002)
- State v. Clark, 129 Wn.2d 211, 916 P.2d 384 (1996)
- State v. Faford, 128 Wn.2d 476, 910 P.2d 447 (1996)
- State v. Young, 123 Wn.2d 173, 867 P.2d 593 (1994)
- State v. Myrick, 102 Wn.2d 506, 688 P.2d 151 (1984)
- State v. Rest. Dev., Inc. v. Cananwill, Inc., 150 Wn.2d 674, 80 P.3d 598 (2003)
- State v. Pacheco, 125 Wn.2d 150, 882 P.2d 183 (1994)
- State v. Corliss, 123 Wn.2d 656, 870 P.2d 317 (1994)
- State v. Bonilla, 23 Wn. App. 869, 598 P.2d 783 (1979)
- State v. Gunwall, 106 Wn.2d 54, 720 P.2d 808 (1986)
- State v. Porter, 98 Wn. App. 631, 990 P.2d 460 (1999)