

WASHINGTON SUPREME COURT

In re the Personal Restraint of McKiearnan

165 Wn. 2d 777 (2009) · Decided March 19, 2009

SUMMARY

The Washington Supreme Court held that a technical misstatement of the statutory maximum sentence in a plea agreement and judgment and sentence did not render the judgment facially invalid. Because the petitioner’s judgment was valid on its face and no statutory exception applied, his personal restraint petition filed more than 20 years after sentencing was time barred. The court affirmed the Court of Appeals’ dismissal.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	Chambers, J.; Alexander, C.J.; C. Johnson, J.; Madsen, J.; Sanders, J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.; Stephens, J.
JURISDICTION	Washington
DECIDED	March 19, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	McKiearnan sought discretionary review of the Court of Appeals' dismissal of his personal restraint petition challenging his 1987 guilty plea and judgment and sentence. The Washington Supreme Court granted discretionary review and affirmed the dismissal.
STANDARD OF REVIEW	The petitioner bears the burden of demonstrating that the judgment and sentence is facially invalid. Whether a judgment and sentence is facially invalid and whether a personal restraint petition is barred by RCW 10.73.090 are reviewed under the governing statutory and facial-validity standards.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	Michael McKiearnan v. State of Washington

TOPICS

- state post-conviction relief
- post-conviction relief
- statutory interpretation
- appellate procedure
- sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the erroneous statement in the plea agreement and judgment and sentence that the maximum sentence was "20 years to life" rendered the judgment and sentence facially invalid.
2. Whether the alleged defect avoided the one-year time bar for collateral attacks under RCW 10.73.090.
3. Whether McKiernan was substantively misinformed about the maximum sentence so as to entitle him to withdraw his guilty plea.

HOLDINGS

1. A technical misstatement of the maximum sentence does not render a judgment and sentence facially invalid when the petitioner was convicted of a valid crime by a court of competent jurisdiction, was sentenced within the applicable standard range, and the misstatement had no actual effect on the petitioner's rights.
2. Because the judgment and sentence was not facially invalid and no exception under RCW 10.73.100 was asserted, McKiernan's personal restraint petition filed more than 20 years after judgment became final was barred by RCW 10.73.090.
3. An allegedly invalid plea agreement cannot, standing alone, overcome the one-year time bar or render an otherwise valid judgment and sentence facially invalid; the judgment and sentence must first be shown to be facially invalid.

KEY QUOTATIONS

"To be facially invalid, a judgment and sentence requires a more substantial defect than a technical misstatement that had no actual effect on the rights of the petitioner." (783)

"Even as misstated, McKiernan was aware of the maximum amount of time he could serve in confinement." (783)

FACTUAL BACKGROUND

In 1987, McKiernan pleaded guilty to first degree robbery after being charged with taking a victim's wallet and vehicle and assaulting the victim. His plea agreement and judgment and sentence incorrectly stated that the maximum sentence was "twenty (20) years to life imprisonment," although the statutory maximum for the class A felony was life imprisonment. McKiernan was correctly informed that the standard sentence range was 36 to 48 months and was sentenced to 36 months. He filed a personal restraint petition more than 20 years later.

PROCEDURAL HISTORY

McKiernan pleaded guilty to first degree robbery in 1987 and received a 36-month sentence. In 2007, he filed a personal restraint petition arguing that misstatements of the statutory maximum sentence in his plea documents and judgment and sentence rendered the judgment facially invalid and entitled him to withdraw his plea. The

Court of Appeals dismissed the petition as time barred and found no valid basis for plea withdrawal. The Washington Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Pers. Restraint of Turay, 150 Wn. 2d 71, 82, 74 P.3d 1194 (2003)
- In re Pers. Restraint of Goodwin, 146 Wn. 2d 861, 866, 50 P.3d 618 (2002)
- State v. King, 130 Wn. 2d 517, 530-31, 925 P.2d 606 (1996)
- In re Pers. Restraint of Thompson, 141 Wn. 2d 712, 719, 10 P.3d 380 (2000)
- In re Pers. Restraint of Stoudmire, 141 Wn. 2d 342, 354, 5 P.3d 1240 (2000)
- In re Pers. Restraint of Hemenway, 147 Wn. 2d 529, 533, 55 P.3d 615 (2002)