

SUPREME COURT OF WISCONSIN

State of Wisconsin v. Melisa Valadez

2016 WI 4 · No. 2014AP678, 2014AP679 & 2014AP680 · Decided January 28, 2016

SUMMARY

The Wisconsin Supreme Court held that Melisa Valadez satisfied the requirements of Wis. Stat. § 971.08(2) because the circuit court failed to provide the required immigration warning before accepting her guilty pleas and her convictions made exclusion from admission to the United States likely. The court reversed and remanded for the convictions to be vacated and for Valadez to withdraw her pleas and enter new pleas, while declining to decide whether a time limit applies to such motions.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Shirley S. Abrahamson, J.; Ann Walsh Bradley, J.; Annette Kingsland Ziegler, J.; Michael J. Gableman, J.; David T. Prosser, J.; Patience Drake Roggensack, C.J.
JURISDICTION	Wisconsin
DECIDED	January 28, 2016
DOCKET	2014AP678, 2014AP679 & 2014AP680
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Wisconsin Supreme Court reviewed the case on certification from the Wisconsin Court of Appeals. Valadez appealed the circuit court's denial of her motion under Wis. Stat. § 971.08(2) to withdraw guilty pleas because the court had failed to provide the required immigration-consequences warning.
STANDARD OF REVIEW	Interpretation and application of Wis. Stat. § 971.08(2) to undisputed facts are questions of law reviewed independently, while benefiting from the analyses of the lower courts.
PRECEDENTIAL VALUE	published precedential Wisconsin Supreme Court opinion
PARTIES	Melisa Valadez v. State of Wisconsin

TOPICS

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QUESTIONS PRESENTED

1. Whether Valadez demonstrated under Wis. Stat. § 971.08(2) that her guilty pleas were likely to result in exclusion from admission to the United States.
2. Whether a defendant must show that the federal government has initiated exclusion or deportation proceedings before satisfying the statutory likelihood requirement.
3. Whether there is a time limit for filing a motion to withdraw a plea under Wis. Stat. § 971.08(2).

HOLDINGS

1. A defendant satisfies Wis. Stat. § 971.08(2)'s requirement to show that a plea is likely to result in exclusion from admission when federal immigration law establishes that the defendant would likely be excluded if the defendant left the United States and sought readmission; the defendant need not show that exclusion proceedings have already begun or that exclusion has actually occurred.
2. Section 971.08(2) does not require a defendant seeking plea withdrawal based on likely exclusion from admission to prove that the federal government has manifested an intent to exclude the defendant or commenced exclusion proceedings.
3. The court did not decide whether a time limit applies to motions under Wis. Stat. § 971.08(2).

KEY QUOTATIONS

“If a circuit court fails to advise a defendant of the immigration consequences (as required by Wis. Stat. § 971.08(1)(c)) and if the defendant shows that the plea is “likely” to result in the defendant’s deportation, exclusion from admission to this country, or denial of naturalization, the circuit court must (“shall”) permit withdrawal of the plea and permit the defendant to enter another plea.” (§15)

“Wisconsin Stat. § 971.08(2) requires an immigration consequence be “likely,” not “certain.”” (§146)

“To hold that Ms. Valadez cannot withdraw her guilty pleas because the federal government has not excluded her from admission is, as a matter of practicality, unworkable and effectively expunges an enumerated consequence—exclusion from admission—from Wis. Stat. § 971.08(2).” (§150)

FACTUAL BACKGROUND

Melisa Valadez, a lawful permanent resident who was not a United States citizen, pleaded guilty in three Wisconsin cases to possession of cocaine, possession of THC, and possession of drug paraphernalia, including a repeater offense. The plea-hearing transcripts showed that the circuit courts failed to give the immigration warning required by Wis. Stat. § 971.08(1)(c). Her convictions for controlled-substance offenses were listed in federal law as grounds for exclusion from admission, and she argued that she would likely be excluded if she left the United States and sought readmission. She completed her sentences and had no subsequent convictions for approximately a decade before filing her plea-withdrawal motion.

PROCEDURAL HISTORY

Valadez pleaded guilty in three Walworth County criminal cases in 2004 and 2005. The circuit courts did not advise her under Wis. Stat. § 971.08(1)(c) that her pleas could result in deportation, exclusion from admission, or denial of naturalization. In 2013, she moved to withdraw the pleas under § 971.08(2); the circuit court denied the motion, and the court of appeals certified the appeal to the Wisconsin Supreme Court. The Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court was directed to vacate the judgments of conviction and permit Valadez to withdraw her guilty pleas and enter new pleas.

CASES CITED

- Padilla v. Kentucky, 559 U.S. 356 (2010)
- State v. Negrete, 2012 WI 92, 343 Wis. 2d 1, 819 N.W.2d 749
- State v. Shata, 2015 WI 74, 364 Wis. 2d 63, 868 N.W.2d 93
- State v. Ortiz-Mondragon, 2015 WI 73, 364 Wis. 2d 1, 866 N.W.2d 717
- State v. Romero-Georgana, 2014 WI 83, 360 Wis. 2d 522, 849 N.W.2d 668
- State v. Bobby G., 2007 WI 77, 301 Wis. 2d 531, 734 N.W.2d 81
- State v. Denk, 2008 WI 130, 315 Wis. 2d 5, 758 N.W.2d 775
- State v. Popanz, 112 Wis. 2d 166, 332 N.W.2d 750 (1983)
- State v. Hemp, 2014 WI 129, 359 Wis. 2d 320, 856 N.W.2d 811
- State v. Baeza, 174 Wis. 2d 118, 496 N.W.2d 233 (Ct. App. 1993)
- State v. Bentley, 201 Wis. 2d 303, 548 N.W.2d 50 (1996)
- State v. Stern, 2006 WI App 193, 296 Wis. 2d 306, 722 N.W.2d 594
- Jungels v. Pierce, 825 F.2d 1127 (7th Cir. 1987)
- State v. Reppin, 35 Wis. 2d 377, 151 N.W.2d 9 (1967)
- State v. Cain, 2012 WI 68, 342 Wis. 2d 1, 816 N.W.2d 177
- State v. Jenkins, 2007 WI 96, 303 Wis. 2d 157, 736 N.W.2d 24
- State v. Bangert, 131 Wis. 2d 246, 389 N.W.2d 12 (1986)
- State v. Brown, 2006 WI 100, 293 Wis. 2d 594, 716 N.W.2d 906
- State v. Cecchini, 124 Wis. 2d 200, 368 N.W.2d 830 (1985)
- State v. Lo, 2003 WI 107, 264 Wis. 2d 1, 665 N.W.2d 756

