

SUPREME COURT OF WISCONSIN

State v. Soto, 343 Wis. 2d 43

817 N.W.2d 848 (2012) · Decided July 12, 2012

SUMMARY

The Wisconsin Supreme Court reviewed whether a defendant's statutory right to be present in the same courtroom as the presiding judge was violated when a guilty-plea hearing was conducted by videoconference. The court held that Wis. Stat. § 971.04(1)(g) provides that right when the plea is accepted and judgment is pronounced, but that the right may be waived. Because Soto expressly consented to videoconferencing after being questioned about it, the court affirmed the denial of his motion to withdraw his guilty plea.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Patience Drake Roggensack, J.
JURISDICTION	Wisconsin
DECIDED	July 12, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Soto appealed the denial of his postsentencing motion to withdraw his guilty plea and vacate the judgment. The Wisconsin Court of Appeals certified statutory-interpretation questions to the Wisconsin Supreme Court.
STANDARD OF REVIEW	Statutory interpretation and application to undisputed facts are reviewed independently, while benefiting from the circuit court's analysis. Whether undisputed statements and actions constitute waiver of a statutory right is also reviewed independently.
PRECEDENTIAL VALUE	Published, precedential Wisconsin Supreme Court opinion
PARTIES	Jon Anthony Soto v. State of Wisconsin

TOPICS

criminal procedure

post-conviction relief

statutory interpretation

plea bargaining

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Wisconsin Statute section 971.04(1)(g) gives a defendant a statutory right to be in the same courtroom as the presiding judge during a plea hearing at which the court accepts the plea and pronounces judgment.
2. Whether that statutory right may be waived through knowing, intelligent, and voluntary consent to videoconferencing.
3. Whether Soto waived the statutory right under the circumstances of his plea hearing.
4. Whether Soto was entitled to withdraw his guilty plea to correct a manifest injustice.

HOLDINGS

1. Section 971.04(1)(g) applies when a plea hearing includes the court's acceptance of the plea and pronouncement of judgment.
2. A criminal defendant has a statutory right to be physically located in a courtroom and, when judgment is pronounced during a plea hearing, ordinarily has a right to be in the same courtroom as the presiding judge.
3. The statutory right to be in the same courtroom as the presiding judge during proceedings covered by section 971.04(1)(g) may be waived, but it may not be forfeited by mere inaction or absence.
4. Soto knowingly, intelligently, and voluntarily waived his statutory right to be in the same courtroom as Judge Lister by expressly consenting to the use of videoconferencing.
5. Soto was not entitled to withdraw his guilty plea because the videoconferenced plea hearing did not violate his statutory right to be present after he knowingly and voluntarily waived that right.

KEY QUOTATIONS

“We conclude that Wis. Stat. § 971.04(1)(g) provides a criminal defendant the statutory right to be in the same courtroom as the presiding judge when a plea hearing is held, if the court accepts the plea and pronounces judgment.” (49)

“However, we also conclude that this statutory right may be waived and that Soto waived it prior to pleading and the court's pronouncement of judgment.” (50)

“Therefore, in accordance with Koopmans, Ndina and our interpretation of Wis. Stat. § 971.04(1)(g), we conclude that a defendant in a criminal proceeding where judgment is pronounced may waive, but not forfeit, the right to be in the same courtroom as the presiding judge during those proceedings.” (66)

“Soto affirmatively waived his statutory right to be present in the same courtroom as the judge during the plea hearing where judgment was pronounced.” (69)

FACTUAL BACKGROUND

Soto appeared with counsel in a Trempealeau County courtroom for a scheduled guilty-plea hearing, while Judge Thomas E. Lister presided from the Jackson County courthouse through videoconferencing. The court confirmed that Soto, counsel, and the prosecutor could see and hear one another, explained that videoconferencing would be used if Soto entered a plea, and obtained Soto's express consent. After a thorough plea colloquy, the court accepted Soto's guilty plea and pronounced judgment; Soto was later sentenced to fifteen years' imprisonment.

PROCEDURAL HISTORY

Soto pleaded guilty through videoconferencing to second-degree recklessly endangering safety with dangerous-weapon and domestic-abuse enhancements. After sentencing, he sought postconviction relief, arguing that the videoconferenced plea hearing violated his statutory right to be present in the same courtroom as the presiding judge. The circuit court denied relief, and the court of appeals certified the appeal to the supreme court, which affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. McCallum, 208 Wis. 2d 463, 561 N.W.2d 707 (1997)
- Rasmussen v. Gen. Motors Corp., 2011 WI 52, 335 Wis. 2d 1, 803 N.W.2d 623
- State v. Ward, 2009 WI 60, 318 Wis. 2d 301, 767 N.W.2d 236
- Richards v. Badger Mut. Ins. Co., 2008 WI 52, 309 Wis. 2d 541, 749 N.W.2d 581
- State ex rel. Kalal v. Circuit Court for Dane County, 2004 WI 58, 271 Wis. 2d 633, 681 N.W.2d 110
- State v. Jensen, 2010 WI 38, 324 Wis. 2d 586, 782 N.W.2d 415
- Sheboygan County Department of Health & Human Services v. Tanya M.B., 2010 WI 55, 325 Wis. 2d 524, 785 N.W.2d 369
- DeHart v. Wis. Mut. Ins. Co., 2007 WI 91, 302 Wis. 2d 564, 734 N.W.2d 394
- State v. Trochinski, 2002 WI 56, 253 Wis. 2d 38, 644 N.W.2d 891
- Cox v. Louisiana, 379 U.S. 536 (1965)
- State v. Vennemann, 180 Wis. 2d 81, 508 N.W.2d 404 (1993)
- State v. Koopmans, 210 Wis. 2d 670, 563 N.W.2d 528 (1997)
- State v. Ndina, 2009 WI 21, 315 Wis. 2d 653, 761 N.W.2d 612
- State v. Huebner, 2000 WI 59, 235 Wis. 2d 486, 611 N.W.2d 727
- State v. Shirley E., 2006 WI 129, 298 Wis. 2d 1, 724 N.W.2d 623
- Brunton v. Nuvell Credit Corp., 2010 WI 50, 325 Wis. 2d 135, 785 N.W.2d 302
- State v. Denson, 2011 WI 70, 335 Wis. 2d 681, 799 N.W.2d 831
- Rao v. WMA Sec., Inc., 2008 WI 73, 310 Wis. 2d 623, 752 N.W.2d 220
- State v. Peters, 2000 WI App 154, 237 Wis. 2d 741, 615 N.W.2d 655

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