

SUPREME COURT OF OREGON

Ashcroft v. Psychiatric Security Review Board

338 Or. 448 (2005) · Decided May 5, 2005

SUMMARY

The Oregon Supreme Court held that alcohol dependence is a personality disorder rather than a mental disease or defect under ORS 161.295(2). Because the Psychiatric Security Review Board therefore continued the petitioner’s commitment on an incorrect legal basis, the court affirmed the Court of Appeals, vacated the Board’s order, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Balmer, J.
JURISDICTION	Oregon
DECIDED	May 5, 2005
DISPOSITION	remanded
PROCEDURAL POSTURE	The Psychiatric Security Review Board petitioned for review of an Oregon Court of Appeals decision reversing the Board's order continuing Ashcroft's commitment.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Psychiatric Security Review Board v. Ashcroft

TOPICS

- statutory interpretation
- administrative law
- criminal procedure
- legislative history

PRACTICE AREAS

- statutory interpretation
- administrative law
- criminal procedure
- insanity defense

QUESTIONS PRESENTED

- Whether alcohol dependence is a mental disease or defect or instead a personality disorder under ORS 161.295(2).

HOLDINGS

1. Alcohol dependence is a personality disorder as that term is used in ORS 161.295(2), and therefore is not a mental disease or defect under that statute.

KEY QUOTATIONS

“alcohol dependence is a “personality disorder” as that term is used in ORS 161.295(2) and that, therefore, it is not a mental disease or defect.” (338 Or. at 448)

“any abnormality constituting solely a personality disorder.” (338 Or. at 452)

“The legislative history shows that the legislature intended to exclude personality disorders such as drug and alcohol dependency from the terms ‘mental disease’ and ‘mental defect’ as it used those terms in ORS 161.295.55” (338 Or. at 452)

FACTUAL BACKGROUND

In January 2002, a trial court found Ashcroft guilty except for insanity of attempted assault in the second degree based on mental disease or defect and committed him to the jurisdiction of the Psychiatric Security Review Board for up to five years. At the Board's April 2002 hearing concerning conditional release or discharge, the evidence included diagnoses of antisocial personality disorder and alcohol dependence, with no identified evidence of another mental disease or defect. The Board continued Ashcroft's commitment, while the Court of Appeals later held that alcohol dependence was a personality disorder excluded from the statutory definition of mental disease or defect.

PROCEDURAL HISTORY

Ashcroft was found guilty except for insanity and placed under the jurisdiction of the Psychiatric Security Review Board. After an initial hearing, the Board continued his commitment based on evidence of alcohol dependence and antisocial personality disorder. The Oregon Court of Appeals reversed, holding that alcohol dependence is a personality disorder excluded from the statutory definition of mental disease or defect. The Oregon Supreme Court allowed the Board's petition for review, affirmed the Court of Appeals, vacated the Board's order, and remanded for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Court of Appeals decision was affirmed, the Psychiatric Security Review Board's order was vacated, and the case was remanded to the Board for further proceedings.

CASES CITED

- Tharp v. PSRB, 338 Or. 413, 110 P.3d 103 (2005)
- Ashcroft v. PSRB, 192 Or. App. 467, 86 P.3d 102 (2004)

OPINION

Ashcroft v. Psychiatric Security Review Board

338 Or. 448

BALMER, J.

BALMER, J. The issue in this case is whether, for purposes of ORS 161.295, alcohol dependence is a “mental disease or defect” or, instead, is a “personality disorder.” The Court of Appeals held that it was a personality disorder. For reasons that this court set out at greater length in *Tharp v. PSRB*, 338 Or 413, 110 P3d 103 (2005), we similarly conclude that alcohol dependence is a personality disorder as that term is used in ORS 161.295(2) and that, therefore, it is not a mental disease or defect. Accordingly, we affirm the decision of the Court of Appeals. In January 2002, a trial court found petitioner guilty except for insanity of attempted assault in the second degree, based on mental disease or defect. The trial court placed petitioner under the jurisdiction of the Psychiatric Security Review Board (board) for a maximum of five years. ORS 161.327(1). In April 2002, the board held a hearing pursuant to ORS 161.341(7)(a) to determine whether petitioner should be conditionally discharged or released.¹ After such a hearing, the board must discharge the committed person if the board finds that “the person is no longer affected by a mental disease or defect, or, if so affected, no longer presents a substantial danger to others * * ORS 161.346(l)(a). At petitioner’s hearing, the state introduced evidence from petitioner’s criminal proceeding, evaluations and tests conducted while petitioner was committed to the state hospital, and the testimony of petitioner’s treating physician at the state hospital. That evidence contained diagnoses by petitioner’s treating physician and others that petitioner was affected by an “antisocial personality disorder” and “alcohol dependence.” Neither party identified any evidence in the record that petitioner suffered from any other mental disease or defect. At the hearing, the state argued that petitioner’s alcohol dependence was a mental disease or defect, that petitioner presented a substantial danger to others, and that *451petitioner’s commitment to the state hospital and to the board’s jurisdiction should be continued. Petitioner responded that alcohol dependence was a “personality disorder” as that term is used in ORS 161.295(2) and therefore is excluded from the definition of “mental disease or defect.” Accordingly, petitioner argued that ORS 161.346(l)(a) required the board to discharge him. The board rejected petitioner’s arguments and ordered that petitioner’s commitment be continued. Petitioner appealed, and the Court of Appeals reversed. *Ashcroft v. PSRB*, 192 Or App 467, 86 P3d 102 (2004). That court concluded that the record contained substantial evidence that petitioner suffers from alcohol dependence but, as noted, held that alcohol dependence is a personality disorder and, therefore, is not a mental disease or defect within the meaning of ORS 161.295(2).² *Id.* at 469. We allowed the board’s petition for review. In *Tharp*, this court reviewed in detail the statutes that authorize a court in a criminal proceeding to find a person guilty except for insanity because of a “mental disease or defect,” the procedures by which a court may order a person found guilty except for insanity committed to the jurisdiction of the board, and the procedures by which a person so committed may be discharged if

the board determines, after a hearing, that the person is no longer affected by a mental disease or defect. 338 Or at 415-16, 420-22. Tharp then considered the meaning of the term “mental disease or defect” and the legislature’s exclusion from that term of “an abnormality manifested only by repeated criminal or otherwise antisocial conduct * * * [or] any abnormality constituting solely a personality disorder.”³ ORS 161.295(2). Id. at 420-30. After ⁴52 reviewing the text of the statute and the legislative history, this court concluded that “substance dependency⁵ is a “personality disorder” as that term is used in ORS 161.205(2), and therefore is not a “mental disease or defect.” Id. at 430. This court’s decision in Tharp, including our analysis of the relevant statutes and the legislative history, demonstrates that alcohol dependence, like the drug and substance dependence that we discussed in Tharp, is a “personality disorder.” See Tharp, 338 Or at 430 (“The legislative history shows that the legislature intended to exclude personality disorders such as drug and alcohol dependency from the terms ‘mental disease⁵ and ‘mental defect⁵ as it used those terms in ORS 161.295.55). The Court of Appeals correctly so held in this case, and we therefore affirm that decision. The decision of the Court of Appeals is affirmed. The order of the Psychiatric Security Review Board is vacated, and the case is remanded to the board for further proceedings. ORS 161.341(7)(a) provides that no person committed to a state hospital following a finding that the person is guilty except for insanity shall be held for more than 90 days from the date of the court’s commitment order “without an initial hearing before the board to determine whether the person should be conditionally released or discharged.” The Court of Appeals rejected the board’s alternative argument that petitioner “should be judicially estopped from arguing that alcohol dependence is not a mental disease or defect because he took the converse position in entering the plea of guilty except for insanity in the criminal proceeding that resulted in his commitment to [the board’s] jurisdiction.” Ashcroft, 192 Or App at 469. The board did not petition for review of the Court of Appeals decision on that issue, and we do not discuss it further. As this court noted in Tharp, the legislature excluded “any abnormality constituting solely a personality disorder” from the term “mental disease or defect” in 1983, while the exclusion of repeated criminal or antisocial conduct had been part of the statute since 1971. Tharp, 338 Or at 424-25.