

## SUPREME COURT OF WASHINGTON

### State v. Williams-Walker, 167 Wash. 2d 889

225 P.3d 913 (2010) · No. Nos. 78611-9, 78876-6, 79074-4 · Decided January 14, 2010

#### SUMMARY

The Washington Supreme Court held that trial courts violated defendants' jury-trial rights by imposing firearm sentencing enhancements when juries had returned special verdicts finding only that the defendants were armed with a deadly weapon. The court further held that this sentencing error, which occurred when the courts imposed sentences unauthorized by the juries' express findings, was not subject to harmless-error analysis under the Washington Constitution. The court affirmed in Williams-Walker, reversed in Graham and Ruth, and remanded all three cases for resentencing.

#### CASE DETAILS

|                       |                                                                                                                                                                                              |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Washington                                                                                                                                                                  |
| WRITING FOR THE COURT | C. Johnson, J.; Barbara A. Madsen, C.J.; Gerry L. Alexander, J.; Richard B. Sanders, J.; Susan Owens, J.; Debra L. Stephens, J.                                                              |
| JURISDICTION          | Washington                                                                                                                                                                                   |
| DECIDED               | January 14, 2010                                                                                                                                                                             |
| DOCKET                | Nos. 78611-9, 78876-6, 79074-4                                                                                                                                                               |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                        |
| PROCEDURAL POSTURE    | The Washington Supreme Court granted review of three Court of Appeals decisions concerning firearm sentencing enhancements, consolidated the cases, and reviewed only the enhancement issue. |
| STANDARD OF REVIEW    | De novo review of the constitutional and statutory legality of the sentence and whether harmless-error analysis applies.                                                                     |
| PRECEDENTIAL VALUE    | Published, precedential en banc opinion of the Supreme Court of Washington.                                                                                                                  |
| PARTIES               | Aro T.J. Williams-Walker, Curtis Eugene Graham, Matthew Robert Ruth v. State of Washington                                                                                                   |

#### TOPICS

[sentencing](#)[jury instructions](#)[criminal procedure](#)[sixth amendment](#)[statutory interpretation](#)

## PRACTICE AREAS

criminal law

sentencing

constitutional law

## QUESTIONS PRESENTED

1. Whether a sentencing court may impose a five-year firearm enhancement when the jury returned only a special verdict finding that the defendant was armed with a deadly weapon.
2. Whether imposition of an enhancement not authorized by the jury's express special verdict is subject to harmless-error analysis under the Washington Constitution.

## HOLDINGS

1. A deadly-weapon special verdict, even when the weapon was in fact a firearm, authorizes only the deadly-weapon enhancement and not the more severe firearm enhancement unless the jury expressly finds by special verdict that the defendant was armed with a firearm.
2. Under article I, sections 21 and 22 of the Washington Constitution, harmless-error analysis does not apply when the sentencing court imposes a firearm enhancement not authorized by the jury's express special verdict.

## KEY QUOTATIONS

*“For purposes of sentence enhancement, the sentencing court is bound by special verdict findings, regardless of the findings implicit in the underlying guilty verdict.”* (at 919)

*“Where the judge exceeds that authority, error occurs that can never be harmless.”* (at 920)

## FACTUAL BACKGROUND

Williams-Walker was convicted of first degree robbery and first degree murder arising from a drug-sale encounter during which a .22-caliber firearm was used and a participant was killed. Graham was convicted of first degree assault and second degree unlawful possession of a firearm after an assault involving a .380-caliber pistol. Ruth was convicted of two counts of first degree assault involving a firearm. In all three cases, the juries returned special verdicts finding that the defendants were armed with a deadly weapon, while the sentencing courts imposed five-year firearm enhancements.

## PROCEDURAL HISTORY

In Williams-Walker, the trial court imposed a five-year firearm enhancement after the jury returned a deadly-weapon special verdict; the Court of Appeals affirmed the conviction, vacated the enhancement, and remanded. In Graham and Ruth, the trial courts imposed five-year firearm enhancements based on deadly-weapon special verdicts, and the Court of Appeals affirmed. The Supreme Court affirmed in Williams-Walker, reversed in Graham and Ruth, and remanded all three cases for resentencing.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Affirm the Court of Appeals in Williams-Walker, reverse the Court of Appeals in Graham and Ruth, and remand all three cases for resentencing consistent with the opinion.

## CASES CITED

- State v. Smith, 150 Wash. 2d 135, 75 P.3d 934 (2003)
- City of Pasco v. Mace, 98 Wash. 2d 87, 653 P.2d 618 (1982)
- State v. Frazier, 81 Wash. 2d 628, 503 P.2d 1073 (1972)
- State v. Recuenco, 163 Wash. 2d 428, 180 P.3d 1276 (2008)
- Washington v. Recuenco, 548 U.S. 212, 126 S. Ct. 2546, 165 L. Ed. 2d 466 (2006)
- Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)
- Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000)
- State v. Frost, 160 Wash. 2d 765, 161 P.3d 361 (2007)
- State v. Mason, 160 Wash. 2d 910, 162 P.3d 396 (2007)
- State v. Mills, 154 Wash. 2d 1, 109 P.3d 415 (2005)
- State v. Pharr, 131 Wash. App. 119, 126 P.3d 66 (2006)
- State v. Gunwall, 106 Wash. 2d 54, 720 P.2d 808 (1986)
- State v. McKinney, 148 Wash. 2d 20, 60 P.3d 46 (2002)
- State v. Ladson, 138 Wash. 2d 343, 979 P.2d 833 (1999)
- State ex rel. Mullen v. Doherty, 16 Wash. 382, 47 P. 958 (1897)
- Neder v. United States, 527 U.S. 1, 119 S. Ct. 1827, 144 L. Ed. 2d 35 (1999)
- State v. Brown, 147 Wash. 2d 330, 58 P.3d 889 (2002)
- State v. Levy, 156 Wash. 2d 709, 132 P.3d 1076 (2006)
- Arizona v. Fulminante, 499 U.S. 279, 111 S. Ct. 1246, 113 L. Ed. 2d 302 (1991)
- Rose v. Clark, 478 U.S. 570, 106 S. Ct. 3101, 92 L. Ed. 2d 353 (1986)
- State v. Lord, 117 Wash. 2d 829, 822 P.2d 177 (1991)
- State v. Murphy, 86 Wash. App. 667, 937 P.2d 1173 (1997)
- State v. Tongate, 93 Wash. 2d 751, 613 P.2d 121 (1980)
- State v. Claborn, 95 Wash. 2d 629, 628 P.2d 467 (1981)
- State v. Hall, 95 Wash. 2d 536, 627 P.2d 101 (1981)
- In re Personal Restraint of Taylor, 95 Wash. 2d 940, 632 P.2d 56 (1981)
- State v. Pam, 98 Wash. 2d 748, 659 P.2d 454 (1983)
- State v. Thomas, 150 Wash. 2d 821, 83 P.3d 970 (2004)
- State v. Hughes, 154 Wash. 2d 118, 110 P.3d 192 (2005)