

SUPREME COURT OF GEORGIA

Adams v. State, 287 Ga. 513

696 S.E.2d 676 (2010) · No. S09G1927 · Decided July 12, 2010

SUMMARY

The Supreme Court of Georgia affirmed Tavins Lee Adams's resentencing for child molestation-related offenses. The court held that the North Carolina v. Pearce presumption of vindictiveness did not apply because the trial court itself granted Adams's motion for a new sentencing hearing after finding a merger error. The court also held that the aggregate approach governs whether a resentencing is more severe, and Adams's new 50-year aggregate sentence was less than his original 60-year sentence.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Presiding Justice; Carley; Hines; Hunstein; Melton; Benham
JURISDICTION	Georgia
DECIDED	July 12, 2010
DOCKET	S09G1927
DISPOSITION	affirmed
PROCEDURAL POSTURE	After a jury convicted Adams of child molestation, aggravated child molestation, aggravated sodomy, and enticing a child for indecent purposes, the trial court partially granted his motion for new trial by merging the child-molestation conviction into the aggravated-sodomy conviction for sentencing. The Court of Appeals affirmed the resulting aggregate 50-year sentence. The Supreme Court of Georgia granted certiorari to determine the proper method for deciding whether resentencing produces a more severe sentence under North Carolina v. Pearce.
STANDARD OF REVIEW	De novo review of the legal question concerning the proper analysis under the Due Process Clause and North Carolina v. Pearce; application of the legal standard to the resentencing record.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Tavins Lee Adams v. The State

TOPICS

sentencing due process criminal procedure appellate procedure standard of review

PRACTICE AREAS

criminal law criminal procedure sentencing constitutional law appellate procedure

QUESTIONS PRESENTED

1. Whether the Pearce presumption of vindictiveness applies when the trial court itself grants the defendant's motion for new trial based on a sentencing error and orders resentencing.
2. Whether the severity of a new sentence under North Carolina v. Pearce should be measured by comparing aggregate sentences or by comparing the sentence imposed on each individual count.

HOLDINGS

1. The Pearce presumption of vindictiveness does not apply when the trial court itself concludes that an error occurred and grants the defendant's motion for a new sentencing hearing.
2. The severity of a resentencing for purposes of the Pearce presumption must be measured using the aggregate approach: the presumption is triggered only when the new aggregate sentence is more severe than the original aggregate sentence.

KEY QUOTATIONS

"Due to real world considerations and the minimal likelihood of vindictiveness, we hold that the Pearce presumption of vindictiveness is not triggered unless the new sentence, in the aggregate, is more severe." (681)

"Therefore, as held by the Supreme Court, the Pearce presumption of vindictiveness is inapplicable where the trial court itself concludes that an error has been made that warrants a new sentence." (679)

FACTUAL BACKGROUND

Adams was convicted of four sex offenses arising from a single incident involving a minor child in a parked car. The trial court initially merged aggravated child molestation into aggravated sodomy and imposed consecutive 20-year terms for child molestation, aggravated sodomy, and enticing a child. After Adams requested merger of child molestation into aggravated sodomy, the court granted that request and imposed 30 years for aggravated sodomy and a consecutive 20 years for enticing a child, reducing the aggregate sentence from 60 to 50 years.

PROCEDURAL HISTORY

The trial court initially imposed consecutive 20-year sentences on three counts, for an aggregate 60-year sentence, after merging aggravated child molestation into aggravated sodomy. On Adams's motion for new trial, the court also merged child molestation into aggravated sodomy and resentenced him to 30 years for aggravated sodomy plus a consecutive 20 years for enticing a child, totaling 50 years. The Georgia Court of Appeals affirmed, and the Supreme Court of Georgia affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- North Carolina v. Pearce, 395 U.S. 711 (1969)
- United States v. Goodwin, 457 U.S. 368 (1982)
- Texas v. McCullough, 475 U.S. 134 (1986)
- Alabama v. Smith, 490 U.S. 794 (1989)
- Curry v. State, 248 Ga. 183, 281 S.E.2d 604 (1981)
- United States v. Campbell, 106 F.3d 64 (5th Cir. 1997)
- United States v. Pimienta-Redondo, 874 F.2d 9 (1st Cir. 1989)
- United States v. Monaco, 702 F.2d 860 (11th Cir. 1983)
- Anthony v. Hopper, 235 Ga. 336, 219 S.E.2d 413 (1975)
- Chambers v. State, 213 Ga. App. 414, 444 S.E.2d 820 (1994)
- Rock v. Zimmerman, 959 F.2d 1237 (3d Cir. 1992)
- State v. Martin, 185 Vt. 286, 973 A.2d 56 (2009)
- State v. Saxon, 109 Ohio St. 3d 176, 846 N.E.2d 824 (2006)
- State v. Whitfield, 124 Ohio St. 3d 319, 922 N.E.2d 182 (2010)
- Monge v. California, 524 U.S. 721 (1998)
- Bishop v. State, 268 Ga. 286, 486 S.E.2d 887 (1997)
- Rooney v. State, 287 Ga. 1, 690 S.E.2d 804 (2010)