

SUPREME COURT OF FLORIDA

State of Florida v. Vernson Edward Dortch

Dortch · No. SC18-681 · Decided May 20, 2021

SUMMARY

The Supreme Court of Florida held that a criminal defendant who challenges an involuntary guilty or nolo contendere plea must first preserve the issue by filing a motion to withdraw the plea under Florida Rule of Appellate Procedure 9.140(b)(2)(A)(ii)(c). The court rejected a fundamental-error exception to that preservation requirement and concluded that an unpreserved claim must instead be pursued through collateral review. The court quashed the Fourth District Court of Appeal’s decision recognizing such an exception.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Muñiz, J.; Canady, C.J.; Couriel, J.; Grosshans, J.; Lawson, J.; Polston, J.; Labarga, J.
JURISDICTION	Florida
DECIDED	May 20, 2021
DOCKET	SC18-681
DISPOSITION	quashed
PROCEDURAL POSTURE	The State sought review of a Fourth District Court of Appeal decision in a criminal direct appeal. The Fourth District certified conflict concerning whether a fundamental-error exception permits a defendant to appeal an involuntary plea without first filing a motion to withdraw the plea.
STANDARD OF REVIEW	De novo review of the interpretation and application of Florida's appellate preservation rules and the certified conflict issue. The court did not decide whether the trial court actually erred in failing to conduct a competency hearing.
PRECEDENTIAL VALUE	published
PARTIES	State of Florida v. Vernson Edward Dortch

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QUESTIONS PRESENTED

1. Whether a defendant who appeals an allegedly involuntary guilty or nolo contendere plea without first filing a motion to withdraw the plea may invoke a fundamental-error exception to Florida Rule of Appellate Procedure 9.140(b)(2)(A)(ii)(c).
2. Whether the court should decide whether the trial court violated due process or Florida Rule of Criminal Procedure 3.210 by accepting Dortch's plea without conducting a competency hearing after ordering a competency examination.

HOLDINGS

1. There is no fundamental-error exception to Florida Rule of Appellate Procedure 9.140(b)(2)(A)(ii)(c)'s requirement that an involuntary-plea claim be preserved by a motion to withdraw the plea. A defendant who fails to comply with that requirement must pursue any available relief through collateral review.
2. The court did not decide whether the trial court erred, whether the error was constitutional, or what collateral claims might be available to Dortch, because the direct appeal was barred by the unfulfilled preservation requirement.

KEY QUOTATIONS

“We hold that there is no such exception. A defendant who does not comply with the rule’s preservation requirement must seek any available relief through collateral review.” (- 1 -)

“an appeal from a guilty plea should never be a substitute for a motion to withdraw a plea.” (- 7 -)

“There is such a thing as a truly mandatory preservation requirement.” (- 20 -)

“We hold that there is no fundamental-error exception to the preservation requirement of rule 9.140(b)(2)(A)(ii)(c).” (- 28 -)

FACTUAL BACKGROUND

On August 3, 2016, Vernson Dortch pleaded no contest, against counsel's advice, to possession of a firearm by a convicted felon, dealing in stolen property, aggravated assault by a detainee with a deadly weapon, and introducing contraband into a county detention facility. The plea colloquy indicated that he understood the proceedings, and the trial court found the plea freely and voluntarily given and accepted it as knowing and intelligent. Months earlier, different defense counsel had moved under Florida Rule of Criminal Procedure 3.210(b) for a competency examination, asserting reasonable grounds to believe Dortch was incompetent, but the motion also purported to waive the required competency hearing. The trial court ordered an examination without expressly finding reasonable grounds to question competency, and the record did not establish that an examination or competency hearing occurred before Dortch entered his plea.

PROCEDURAL HISTORY

Dortch pleaded no contest to four felony charges and received a ten-year prison sentence, including a three-year mandatory minimum. He filed a notice of appeal without first moving to withdraw his plea. The Fourth District, sitting en banc, held that the trial court committed fundamental error by failing to conduct a competency hearing after ordering a competency examination and remanded for a nunc pro tunc competency determination or, if that was impossible, vacatur of the judgment and sentence and a new trial. The Supreme Court of Florida accepted certified conflict jurisdiction, quashed the Fourth District's decision, and remanded with instructions to affirm the convictions and sentences.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The decision under review is quashed, and the case is remanded to the Fourth District Court of Appeal with instructions to affirm Dortch's convictions and sentences.

CASES CITED

- Dortch v. State, 242 So. 3d 431, 433 (Fla. 4th DCA 2018)
- Pressley v. State, 227 So. 3d 573 (Fla. 1st DCA 2017)
- Garcia-Manriquez v. State, 146 So. 3d 134 (Fla. 3d DCA 2014)
- Hicks v. State, 915 So. 2d 740 (Fla. 5th DCA 2005)
- Robinson v. State, 373 So. 2d 898, 900, 902 (Fla. 1979)
- Amendments to the Florida Rules of Appellate Procedure, 696 So. 2d 1103, 1105-06 (Fla. 1996)
- Mikenas v. State, 460 So. 2d 359, 361 (Fla. 1984)
- Pate v. Robinson, 383 U.S. 375, 378, 385-86 (1966)
- Godinez v. Moran, 509 U.S. 389, 396, 398-99 (1993)
- Dusky v. United States, 362 U.S. 402 (1960)
- Drope v. Missouri, 420 U.S. 162, 172, 177 n.13, 180 (1975)
- Lane v. State, 388 So. 2d 1022, 1025 (Fla. 1980)
- United States v. Abdulmutallab, 739 F.3d 891, 901 (6th Cir. 2014)
- Bryson v. Ward, 187 F.3d 1193, 1202 (10th Cir. 1999)
- Reynolds v. Norris, 86 F.3d 796, 800 (8th Cir. 1996)
- Dougherty v. State, 149 So. 3d 672, 673, 676 (Fla. 2014)
- Maddox v. State, 760 So. 2d 89, 98-99 (Fla. 2000)
- Denson v. State, 711 So. 2d 1225, 1229 (Fla. 2d DCA 1998)
- United States v. Olano, 507 U.S. 725, 731 (1993)
- Sanford v. Rubin, 237 So. 2d 134, 137 (Fla. 1970)

- Thomas v. State, 894 So. 2d 1000, 1002 (Fla. 1st DCA 2005)
- Leonard v. State, 760 So. 2d 114, 116-18 (Fla. 2000)
- State v. T.G., 800 So. 2d 204, 211-13 (Fla. 2001)
- Griffin v. State, 114 So. 3d 890, 900 (Fla. 2013)
- Bolware v. State, 995 So. 2d 268, 272 (Fla. 2008)
- McCarthy v. United States, 394 U.S. 459, 466 (1969)
- Jackson v. State, 983 So. 2d 562, 575 (Fla. 2008)
- State v. T.G., 800 So. 2d 204, 212-13 (Fla. 2001)
- McFadden v. State, 177 So. 3d 562, 566 (Fla. 2015)
- Evitts v. Lucey, 469 U.S. 387, 393 (1985)
- Nelson v. State, 43 So. 3d 20, 33 (Fla. 2010)
- Rodgers v. State, 3 So. 3d 1127, 1132 (Fla. 2009)
- Jaimes v. State, 51 So. 3d 445, 448 (Fla. 2010)
- Crosby v. State, 175 So. 3d 382, 383 (Fla. 5th DCA 2015)

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