

WASHINGTON SUPREME COURT

State v. Dennis

421 P.3d 944 (Wash. 2018) · Decided July 26, 2018

SUMMARY

The Washington Supreme Court interpreted RCW 9.41.040(4), which governs restoration of firearm rights after a felony conviction. The opinion addressed whether a later misdemeanor conviction restarts the required five-year crime-free period. The dissent argues that the statute requires the petitioner to have remained crime-free for at least five consecutive years immediately before petitioning and that Dennis’s 2014 conviction restarted the waiting period.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	Madsen, J.; Owens, J.; Stephens, J.; Wiggins, J.; Gordon McCloud, J.; González, J.; Fairhurst, C.J.; Yu, J.
JURISDICTION	Washington
DECIDED	July 26, 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Dennis petitioned for restoration of his firearm rights under RCW 9.41.040(4)(a)(ii)(A). The superior court denied the petition, and the Washington Court of Appeals, Division One, affirmed. The Washington Supreme Court granted review to resolve a conflict between appellate divisions concerning whether the required five-year conviction-free period must immediately precede the petition.
STANDARD OF REVIEW	De novo review of statutory interpretation.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	Edgar Dennis III v. State of Washington

TOPICS

- statutory interpretation
- legislative intent
- criminal procedure
- post-conviction relief
- sentencing

PRACTICE AREAS

- firearms law
- criminal law
- statutory interpretation
- post-conviction relief

QUESTIONS PRESENTED

1. Whether RCW 9.41.040(4)(a)(ii)(A) requires a petitioner to have been conviction-free for five consecutive years immediately preceding the filing of a petition for restoration of firearm rights, or whether any prior five-year conviction-free period satisfies the statutory eligibility requirement.

HOLDINGS

1. For a petitioner with a qualifying prior class C felony conviction, any period of five or more consecutive years in the community without a conviction satisfies the statute; the five-year period need not immediately precede the petition.

KEY QUOTATIONS

“We reverse the Court of Appeals and hold that any five-year conviction-free period satisfies this requirement for eligibility to petition for restoration of firearm rights.” (at 946)

“The language of the restoration provision is clear: an offender having previously been convicted of a class C felony needs a period of five years without any convictions before he or she can petition for restoration of rights; this five-year period need not immediately precede the petition.” (at 949)

“The only discretion the restoration provision contemplates is the petitioner’s discretion to decide when to petition.” (at 949)

FACTUAL BACKGROUND

Edgar Dennis III was convicted in 1991 of second degree robbery, third degree assault, and two felony violations of the Uniform Controlled Substances Act, and he was convicted of third degree assault in 1998. After living in the community for more than 15 years without a conviction, he was convicted of first degree negligent driving, a misdemeanor, in 2014. He petitioned for restoration of his firearm rights in April 2016, after having previously completed a conviction-free period of more than five consecutive years.

PROCEDURAL HISTORY

Dennis was convicted of several felonies in 1991 and a misdemeanor in 1998, losing his right to possess firearms. After more than 15 years in the community without a conviction, he was convicted of first degree negligent driving in 2014 and petitioned for restoration in April 2016. The superior court denied the petition, and Division One affirmed on the ground that the five-year period had to immediately precede the petition. The Supreme Court reversed and remanded with instructions to grant the petition.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial court with instructions to grant Dennis's petition for restoration of his firearm rights.

CASES CITED

- State v. Swanson, 116 Wash. App. 67, 78, 65 P.3d 343 (2003)
- Payseno v. Kitsap County, 186 Wash. App. 465, 473, 346 P.3d 784 (2015)
- State v. Dennis, 200 Wash. App. 654, 666, 402 P.3d 943 (2017)
- State v. Moses, 145 Wash. 2d 370, 374, 37 P.3d 1216 (2002)
- Jenkins v. Bellingham Municipal Court, 95 Wash. 2d 574, 579, 627 P.2d 1316 (1981)
- Rivard, 168 Wash. 2d at 784, 231 P.3d 186
- In re Marriage of Schneider, 173 Wash. 2d 353, 363, 268 P.3d 215 (2011)
- State v. Vela, 100 Wash. 2d 636, 641, 673 P.2d 185 (1983)
- State v. Larson, 184 Wash. 2d 843, 851, 365 P.3d 740 (2015)
- Columbia Riverkeeper v. Port of Vancouver USA, 188 Wash. 2d 421, 440, 395 P.3d 1031 (2017)
- Dep't of Ecology v. Campbell & Gwinn, LLC, 146 Wash. 2d 1, 10-11, 43 P.3d 4 (2002)
- State v. Dennis, 189 Wash. 2d 1031, 407 P.3d 1146 (2018)