

OREGON SUPREME COURT

State v. Riley, 365 Or. 606

443 P.3d 610 (2019) · Decided May 31, 2019

SUMMARY

The Oregon Supreme Court held that ORS 136.440(1) requires corroborating evidence independent of accomplice testimony and reaffirmed that rule as binding precedent. Because the independent evidence did not connect Riley to the charged offenses, the court affirmed in part, reversed in part, and remanded for further proceedings.

CASE DETAILS

COURT	Oregon Supreme Court
JURISDICTION	Oregon
DECIDED	May 31, 2019
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought review of the Court of Appeals' reversal of defendant's convictions on six counts, arguing that ORS 136.440(1) does not require corroborating evidence to be independent of accomplice testimony.
STANDARD OF REVIEW	On review of the denial of a motion for judgment of acquittal, the court construes the facts in the light most favorable to the State and determines whether the evidence was legally sufficient under ORS 136.440(1).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; binding statewide precedent.
PARTIES	State of Oregon v. Riley

TOPICS

- evidence
- criminal procedure
- statutory interpretation

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- statutory interpretation

QUESTIONS PRESENTED

1. Whether ORS 136.440(1) requires corroborating evidence to be independent of accomplice testimony.
2. Whether Oregon precedent adopting the independent-evidence rule should be abandoned or reconsidered under the statutory-interpretation methodology of *PGE v. Bureau of Labor and Industries and State v. Gaines*.
3. Whether the evidence independent of the accomplices' testimony sufficiently tended to connect defendant with the charged attempted robbery and kidnapping offenses.

HOLDINGS

1. ORS 136.440(1) requires corroborating evidence that is independent of the accomplice's testimony and that tends to connect the defendant with the commission of the offense.
2. The court declined to reconsider or abandon the independent-evidence rule because prior Oregon decisions interpreting the statute remain precedential despite predating *PGE* and because the State did not meet its substantial burden under *stare decisis*.
3. The evidence did not satisfy ORS 136.440(1) because, without relying on the accomplices' testimony, it did not tend to connect defendant with the attempted jewelry-store robbery and kidnapping or the attempted T-Mobile robbery.

KEY QUOTATIONS

“Any corroborative evidence legitimately tending to connect a defendant with the commission of the crime may be sufficient to warrant a conviction, although standing by itself it would be only slight proof of defendant's guilt and entitled to but little consideration, and even though it is not wholly inconsistent with the innocence of the defendant.” (443 P.3d at 614)

“Without reference to the accomplice testimony, the available evidence does not “connect the defendant with the commission of” either the attempted jewelry store robbery and kidnapping or the attempted T-Mobile robbery.” (443 P.3d at 618)

FACTUAL BACKGROUND

Defendant was convicted of multiple crimes involving two accomplices, Ropp and Young, who testified against him pursuant to a cooperation agreement with the State. Six convictions involved an attempted jewelry-store robbery and kidnapping and attempted robberies connected to a T-Mobile episode. The State relied primarily on the accomplices' testimony and physical items found in an SUV, including firearms, syringes, thermite, and an animal-shelter jacket. The Supreme Court concluded that, independent of the accomplices' testimony, those items and other evidence did not tend to connect defendant with the charged offenses.

PROCEDURAL HISTORY

Defendant was charged with 18 counts, one of which was dismissed, and was convicted on the remaining 17 counts. After the State's case, defendant moved for judgments of acquittal on six counts, arguing that the accomplice testimony was not corroborated as required by ORS 136.440(1); the circuit court denied the motion. The Court of Appeals reversed the six convictions and remanded for resentencing. The Oregon Supreme Court

affirmed the Court of Appeals, reversed the corresponding portions of the circuit court's judgment, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must conduct further proceedings consistent with reversal of the six convictions, including resentencing as appropriate.

CASES CITED

- State v. Garcia, 361 Or. 672, 674, 399 P.3d 444 (2017)
- State v. Washington, 355 Or. 612, 620-21, 330 P.3d 596 (2014)
- State v. Reynolds, 160 Or. 445, 458-61, 86 P.2d 413 (1939)
- State v. Walton, 311 Or. 223, 242-43, 809 P.2d 81 (1991)
- State v. Carroll, 251 Or. 197, 200, 444 P.2d 1006 (1968)
- State v. Scott, 28 Or. 331, 337, 339, 42 P. 1 (1895)
- State v. Brake, 99 Or. 310, 313-14, 195 P. 583 (1921)
- State v. Caldwell, 241 Or. 355, 357-61, 405 P.2d 847 (1965)
- PGE v. Bureau of Labor and Industries, 317 Or. 606, 610-12, 859 P.2d 1143 (1993)
- State v. Gaines, 346 Or. 160, 171-72, 206 P.3d 1042 (2009)
- Mastriano v. Board of Parole, 342 Or. 684, 692, 159 P.3d 1151 (2007)
- Farmers Ins. Co. v. Mowry, 350 Or. 686, 697, 261 P.3d 1 (2011)
- Halperin v. Pitts, 352 Or. 482, 492, 287 P.3d 1069 (2012)
- City of Seattle v. Department of Revenue, 357 Or. 718, 730, 357 P.3d 979 (2015)
- People v. Perez, 4 Cal. 5th 421, 452, 411 P.3d 490 (2018)
- People v. Garton, 4 Cal. 5th 485, 518, 412 P.3d 315 (2018)