

SUPREME COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania v. George Thomas Shifflett

Shifflett · No. 26 MAP 2024 · Decided May 30, 2025

SUMMARY

The Supreme Court of Pennsylvania considered whether a defendant's prior acceptance of accelerated rehabilitative disposition (ARD) for a DUI may be treated as a prior offense for purposes of imposing an enhanced sentence under the Pennsylvania Motor Vehicle Code. Applying *Alleyne* and related precedent, the Court held that treating the prior ARD disposition as a prior offense for sentencing purposes was unconstitutional and reversed the Superior Court's order remanding the case for resentencing.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Chief Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht; Justice Mundy; Justice Brobson; Justice McCaffery
JURISDICTION	Supreme Court of Pennsylvania
DECIDED	May 30, 2025
DOCKET	26 MAP 2024
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Discretionary appeal from the Superior Court's order vacating Shifflett's judgment of sentence and remanding for resentencing.
STANDARD OF REVIEW	Constitutionality of a statute is reviewed de novo, with plenary scope of review. Statutes are presumed constitutional, and the challenger bears the burden of showing a clear, palpable, and plain constitutional violation.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	George Thomas Shifflett v. Commonwealth of Pennsylvania

TOPICS

- sentencing
- sixth amendment
- due process
- statutory interpretation
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether treating a defendant's prior acceptance of ARD for a DUI offense as a prior offense for purposes of imposing an enhanced sentence under 75 Pa.C.S. §§ 3804 and 3806 violates the Sixth Amendment and due process principles recognized in *Apprendi* and *Alleyne*.
2. Whether a prior acceptance of ARD is sufficiently equivalent to a prior conviction or guilty plea to fall within the *Apprendi-Alleyne* prior-conviction exception.
3. Whether the statutory provision treating ARD as a prior offense is facially unconstitutional or unconstitutional only as applied.
4. Whether the ARD provision in 75 Pa.C.S. § 3806(a) is severable from the remainder of the statutory definition of prior offense.

HOLDINGS

1. A defendant's prior acceptance of ARD cannot be viewed as the equivalent of a prior conviction for purposes of the *Apprendi* prior-conviction exception because ARD proceedings lack the constitutional safeguards accompanying a criminal conviction.
2. A defendant's prior acceptance of ARD cannot be equated with a guilty plea for purposes of the *Apprendi-Alleyne* prior-conviction exception.
3. When used under 75 Pa.C.S. § 3806 to increase the penalty for a subsequent DUI under § 3804, a defendant's prior acceptance of ARD is a fact that must be submitted to a jury and proven beyond a reasonable doubt; the statutory treatment of ARD as a prior offense for that purpose is unconstitutional.
4. The portion of 75 Pa.C.S. § 3806 that permits a prior acceptance of ARD to serve as the basis for an enhanced sentence under § 3804 is facially unconstitutional.
5. The reference to ARD is severable from the remainder of § 3806(a), so only the provision treating acceptance of ARD as a prior offense is invalidated.

KEY QUOTATIONS

“Thus, we hold that a defendant’s previous acceptance of ARD cannot be viewed as the equivalent of a prior conviction for Apprendi purposes.” (at 20)

“Thus, an individual’s previous acceptance of ARD, which, when construed as a prior offense under Section 3806 to increase the penalty for a subsequent conviction pursuant to Section 3804, is a fact that must be submitted to a jury and proven beyond a reasonable doubt.” (at 22-23)

“Thus, as Section 3806 allows a defendant’s previous acceptance of ARD to be used as a basis for an enhanced sentence under Section 3804, in contravention of Apprendi and Alleyne, we hold that it is facially unconstitutional.” (at 27-28)

FACTUAL BACKGROUND

Shifflett accepted ARD in 2012 after being charged with DUI. After a new DUI incident in 2022, the Commonwealth treated the 2012 ARD disposition as a prior offense under 75 Pa.C.S. § 3806 and sought the enhanced second-offense sentence under § 3804. Shifflett had not been convicted in the ARD proceeding, was not required to admit guilt, and would have retained his trial rights if he failed to complete ARD. The trial court excluded the prior ARD disposition and sentenced him as a first offender.

PROCEDURAL HISTORY

Shifflett was charged with a 2022 DUI as a second offense based on his prior acceptance of ARD for a 2012 DUI. The trial court excluded evidence of the prior ARD disposition under *Alleyne* and sentenced him as a first offender. The Superior Court vacated the sentence and remanded for resentencing, relying on its en banc decisions in *Richards* and *Moroz*. The Supreme Court of Pennsylvania granted allowance of appeal, reversed the Superior Court, and remanded for reinstatement of the original sentence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Superior Court's order and remand for reinstatement of Shifflett's original judgment of sentence as a first offender. Jurisdiction relinquished.

CASES CITED

- *Alleyne v. United States*, 570 U.S. 99 (2013)
- *Commonwealth v. Chichkin*, 232 A.3d 959 (Pa. Super. 2020)
- *Commonwealth v. Richards*, 284 A.3d 214 (Pa. Super. 2022) (en banc)
- *Commonwealth v. Moroz*, 284 A.3d 227 (Pa. Super. 2022) (en banc)
- *Commonwealth v. Verbeck*, 290 A.3d 260 (Pa. 2023) (per curiam)
- *Almendarez-Torres v. United States*, 523 U.S. 224 (1998)
- *Apprendi v. New Jersey*, 530 U.S. 466 (2000)
- *Jones v. United States*, 526 U.S. 227 (1999)
- *Ring v. Arizona*, 536 U.S. 584 (2002)
- *Blakely v. Washington*, 542 U.S. 296 (2004)
- *Cunningham v. California*, 549 U.S. 270 (2007)
- *Erlinger v. United States*, 602 U.S. 821 (2024)
- *Oregon v. Ice*, 555 U.S. 160 (2009)
- *Commonwealth v. Lutz*, 495 A.2d 928 (Pa. 1985)
- *Whalen v. Commonwealth, Department of Transportation, Bureau of Driver Licensing*, 32 A.3d 677 (Pa. 2011)
- *J.F. v. Department of Human Services*, 245 A.3d 658 (Pa. 2021)

- Commonwealth v. Hines, 437 A.2d 1180 (Pa. 1981)
- City of Los Angeles, California v. Patel, 576 U.S. 409 (2015)
- Washington State Grange v. Washington State Republican Party, 552 U.S. 442 (2008)
- Commonwealth v. Pownall, 278 A.3d 885 (Pa. 2022)
- Commonwealth v. Wolfe, 140 A.3d 651 (Pa. 2016)
- Commonwealth v. Hopkins, 117 A.3d 247 (Pa. 2015)
- Commonwealth v. Samuel, 961 A.2d 57 (Pa. 2008)
- Commonwealth v. King, 234 A.3d 549 (Pa. 2020)
- Martin v. Donegal Township, 325 A.3d 502 (Pa. 2024)
- Commonwealth v. Torsilieri, 316 A.3d 77 (Pa. 2024)

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