

SUPREME COURT OF WASHINGTON

State v. Harner

153 Wash. 2d 228 (2004) · Decided December 23, 2004

SUMMARY

The Washington Supreme Court considered whether the absence of a county drug court violated defendants’ rights to equal protection and due process. It held that RCW 2.28.170 permissively authorizes counties to establish drug courts, creates no entitlement to drug-court participation or treatment, and does not violate either constitutional protection when a county lacks such a program. The court affirmed the defendants’ convictions and sentences.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Johnson, J.; Alexander, C.J.; Madsen, J.; Sanders, J.; Ireland, J.; Bridge, J.; Chambers, J.; Owens, J.; Fairhurst, J.
JURISDICTION	Washington
DECIDED	December 23, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated review of two criminal convictions in which the defendants argued that the absence of county drug courts violated equal protection and due process and sought dismissal of the charges.
STANDARD OF REVIEW	Constitutional claims concerning equal protection and due process were reviewed de novo. The court applied rational-basis review to the equal-protection claim.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Melody Harner, Kathryn Keithley v. State of Washington

TOPICS

- criminal procedure
- equal protection
- due process
- rational basis review
- statutory interpretation

PRACTICE AREAS

- criminal procedure
- constitutional law
- equal protection
- due process
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the defendants had standing to challenge the absence of county drug courts when the State first raised standing on appeal.
2. Whether RCW 2.28.170, as applied in counties that had not established drug courts, violated the defendants' equal-protection rights under the Fourteenth Amendment and article I, section 12 of the Washington Constitution.
3. Whether the absence of drug courts in the defendants' counties violated their due-process rights under the Fourteenth Amendment and article I, section 3 of the Washington Constitution.

HOLDINGS

1. The State's standing challenge was waived because it was not raised in the trial court.
2. The absence of a drug court in the county where a defendant is charged does not violate the defendant's right to equal protection.
3. The absence of a drug court in the county where a defendant is charged does not violate the defendant's right to due process because no constitutional right to participate in drug court exists.

KEY QUOTATIONS

“We hold the absence of a drug court in a county where a defendant is charged does not violate that defendant’s right to equal protection.” (236)

“Drug offenders prosecuted in counties without drug courts have not been denied any right to participate in drug court because no constitutional due process right exists.” (238)

“We hold that a defendant’s rights to equal protection and due process are not violated by the absence of a drug court in the county where the defendant is charged.” (238)

FACTUAL BACKGROUND

Melody Harner was arrested in Grays Harbor County for driving with a suspended license, and a search incident to arrest uncovered a syringe containing methamphetamine. Kathryn Keithley was arrested in Stevens County after a customs search of her car at the Canadian border uncovered cocaine in her purse. Neither county had established a drug court, and both defendants sought diversion or dismissal based on the absence of such a program.

PROCEDURAL HISTORY

Harner was convicted in Grays Harbor County of possession of methamphetamine after the trial court denied her request for diversion to a drug court or dismissal. The Court of Appeals affirmed. Keithley was convicted in Stevens County of unlawful possession of a controlled substance after the trial court denied her motion to dismiss; her case was transferred to the Washington Supreme Court and consolidated with Harner's case. The Supreme Court affirmed both judgments and sentences.

DISPOSITION

affirmed

CASES CITED

- State v. Little, 116 Wn. App. 346, 66 P.3d 1099, review denied, 150 Wn.2d 1019 (2003)
- State v. Cardenas, 146 Wn.2d 400, 405, 47 P.3d 127 (2002)
- State v. Thorne, 129 Wn.2d 736, 770-771, 921 P.2d 514 (1996)
- State v. Becker, 132 Wn.2d 54, 61, 935 P.2d 1321 (1997)

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