

## SUPREME COURT OF WASHINGTON

# State of Washington v. Bayani John Mandanas, 168 Wash. 2d 84

228 P.3d 13 (2010) · No. No. 80441-9 · Decided January 28, 2010

### SUMMARY

The Supreme Court of Washington held that firearm enhancements are mandatory and must run consecutively for multiple enhancement-eligible offenses, even when the offenses constitute the same criminal conduct for offender-score purposes. The court rejected the defendant's rule-of-lenity argument, finding the relevant statutes unambiguous, and did not reach the alternative double-jeopardy claim because it was outside the scope of review. The court affirmed the Court of Appeals.

### CASE DETAILS

|                       |                                                                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Washington                                                                                                                                                                                             |
| WRITING FOR THE COURT | Alexander, J.; Charles W. Johnson, J.; Susan Owens, J.; Mary E. Fairhurst, J.; James M. Johnson, J.; Debra L. Stephens, J.; Tom Chambers, J.; Richard B. Sanders, J.; Barbara A. Madsen, C.J.                           |
| JURISDICTION          | Washington                                                                                                                                                                                                              |
| DECIDED               | January 28, 2010                                                                                                                                                                                                        |
| DOCKET                | No. 80441-9                                                                                                                                                                                                             |
| DISPOSITION           | affirmed                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Mandanas sought review of the Washington Court of Appeals' sentencing decision concerning whether two firearm enhancements had to run consecutively when the underlying offenses constituted the same criminal conduct. |
| STANDARD OF REVIEW    | Statutory interpretation is reviewed de novo.                                                                                                                                                                           |
| PRECEDENTIAL VALUE    | Published, precedential Washington Supreme Court decision                                                                                                                                                               |
| PARTIES               | Bayani John Mandanas v. State of Washington                                                                                                                                                                             |

### TOPICS

[sentencing](#) [sentencing guidelines](#) [statutory interpretation](#) [rule of lenity](#) [appellate procedure](#)

### PRACTICE AREAS

[criminal law](#) [sentencing](#) [statutory interpretation](#) [appellate procedure](#)

## QUESTIONS PRESENTED

1. Whether Washington's firearm-enhancement statute requires multiple firearm enhancements when a defendant is convicted of multiple enhancement-eligible offenses that constitute the same criminal conduct under the sentencing statute.
2. Whether the firearm-enhancement statute is ambiguous in that circumstance so that the rule of lenity applies.

## HOLDINGS

1. A sentencing court must impose multiple firearm enhancements when a defendant is convicted of multiple enhancement-eligible offenses, even when the offenses constitute the same criminal conduct under RCW 9.94A.589(1)(a). The enhancements must run consecutively.
2. The relevant statutory provisions have only one reasonable interpretation: multiple firearm enhancements are mandatory for multiple enhancement-eligible offenses constituting the same criminal conduct. Because the statutes are not ambiguous, the rule of lenity does not apply.

## KEY QUOTATIONS

*“Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter.” (15)*

*“Thus, by its plain terms, the effect of the sentencing statute is only “for the purpose of the offender score.”” (15)*

*“Thus, there is no ambiguity and, consequently, the rule of lenity has no application here and our inquiry ends.” (15)*

## FACTUAL BACKGROUND

During an altercation, Mandanas punched Carlos Padilla, struck him in the head with a firearm, pointed the firearm at his head, and threatened to kill him. Padilla retreated into a medical clinic, where Mandanas followed him and struck him again with the firearm before fleeing. Mandanas was convicted of second-degree felony assault and felony harassment, both firearm-enhancement-eligible offenses.

## PROCEDURAL HISTORY

A jury convicted Mandanas of second-degree felony assault and felony harassment, each committed while armed with a firearm. The trial court imposed concurrent sentences for the offenses and consecutive firearm enhancements, finding that the offenses were not the same criminal conduct. The Court of Appeals held that the offenses were the same criminal conduct but upheld the consecutive enhancements and rejected the double-jeopardy claim. The Washington Supreme Court granted review only on the sentencing issue and affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- State v. Williams, 158 Wash. 2d 904, 908, 148 P.3d 993 (2006)
- American Continental Insurance Co. v. Steen, 151 Wash. 2d 512, 518, 91 P.3d 864 (2004)
- Koenig v. City of Des Moines, 158 Wash. 2d 173, 181, 142 P.3d 162 (2006)
- National Electrical Contractors Association v. Riveland, 138 Wash. 2d 9, 19, 978 P.2d 481 (1999)
- State v. Armendariz, 160 Wash. 2d 106, 110, 156 P.3d 201 (2007)
- State v. J.P., 149 Wash. 2d 444, 450, 69 P.3d 318 (2003)
- State ex rel. M.M.G. v. Graham, 159 Wash. 2d 623, 632, 152 P.3d 1005 (2007)
- State v. Jacobs, 154 Wash. 2d 596, 601, 603, 115 P.3d 281 (2005)
- State v. Roberts, 117 Wash. 2d 576, 585, 817 P.2d 855 (1991)
- State v. DeSantiago, 149 Wash. 2d 402, 423, 68 P.3d 1065 (2003)
- State v. Mandanas, noted at 139 Wash. App. 1017

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