

## SUPREME COURT OF WASHINGTON

# State of Washington v. Thomas Harry Eaton, 168 Wash. 2d 476

229 P.3d 704 (2010) · No. No. 81348-5 · Decided March 25, 2010

### SUMMARY

The Washington Supreme Court held that a sentencing enhancement for possessing a controlled substance in a county jail or state correctional facility requires proof that the defendant took a voluntary act resulting in placement within the enhancement zone. Because Eaton was arrested outside the jail and forcibly transported there, the State failed to prove the required volitional element. The court affirmed the Court of Appeals' reversal of the enhancement.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                           |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Washington                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Chambers, J.; Charles W. Johnson, J.; Gerry L. Alexander, J.; Richard B. Sanders, J.; Debra L. Stephens, J.; Barbara A. Madsen, C.J.; Susan Owens, J.; James M. Johnson, J.; Fairhurst, J.                                                |
| JURISDICTION          | Washington                                                                                                                                                                                                                                |
| DECIDED               | March 25, 2010                                                                                                                                                                                                                            |
| DOCKET                | No. 81348-5                                                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | The State sought review of the Court of Appeals' reversal of a sentencing enhancement imposed after Eaton was convicted of possession of methamphetamine in a county jail. The Supreme Court of Washington affirmed the Court of Appeals. |
| STANDARD OF REVIEW    | Questions of statutory interpretation are reviewed de novo.                                                                                                                                                                               |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                            |
| PARTIES               | State of Washington v. Thomas Harry Eaton                                                                                                                                                                                                 |

### TOPICS

statutory interpretation   sentencing   criminal procedure   mens rea   appellate procedure

### PRACTICE AREAS

criminal law   sentencing   statutory interpretation   appellate procedure

## QUESTIONS PRESENTED

1. Whether RCW 9.94A.533(5) requires the State to prove that a defendant took a voluntary or volitional act to place himself or herself within a county jail or state correctional facility before imposing the controlled-substance sentencing enhancement.
2. Whether the State met its burden of proving the required volitional component when Eaton was arrested outside the enhancement zone and transported to jail by police.
3. Whether the fact that a defendant is found possessing a controlled substance in an enhancement zone creates a permissive inference of volition that satisfies the State's burden of proof.

## HOLDINGS

1. RCW 9.94A.533(5) includes an implied volitional element. The State must prove beyond a reasonable doubt that the defendant took some voluntary action placing the defendant within the county jail or state correctional facility before the enhancement may be imposed.
2. The State failed to prove beyond a reasonable doubt that Eaton was volitionally within the enhancement zone because he was arrested outside the jail and transported there by police.
3. Finding a defendant in an enhancement zone while possessing a controlled substance permits, but does not require, the fact finder to infer that the defendant was in the zone voluntarily. The inference alone may not be sufficient to establish volition beyond a reasonable doubt.

## KEY QUOTATIONS

*“We hold that the enhancement does require a volitional act and affirm the Court of Appeals.” (at 705)*

*“For these reasons we hold that RCW 9.94A.533(5) encompasses a volitional element that the State must prove beyond a reasonable doubt.” (at 709)*

*“The fact that a defendant is found within an enhancement zone gives rise to a reasonable inference that the defendant is there volitionally.” (at 710)*

*“Where, as here, the defendant is arrested and taken to the enhancement zone, the volitional component of the actus reus cannot be met.” (at 710)*

## FACTUAL BACKGROUND

Police arrested Eaton for DUI after a traffic stop and transported him to the Clark County Jail. Jail staff discovered methamphetamine taped to his sock during the booking search. Eaton had been arrested outside the jail and was forcibly transported there by police; the State did not prove that he voluntarily entered or otherwise chose to be in the jail before possessing the drug there.

## PROCEDURAL HISTORY

Eaton was convicted of DUI and possession of a controlled substance, and the jury found that he possessed methamphetamine in a county jail. The trial court imposed a 12-month jail-zone sentencing enhancement. The Court of Appeals reversed the enhancement because the State had not proved that Eaton acted voluntarily in

entering the enhancement zone. The Washington Supreme Court affirmed, while noting that the underlying convictions were not before it.

## DISPOSITION

affirmed

## CASES CITED

- State v. Wadsworth, 139 Wash. 2d 724, 734, 991 P.2d 80 (2000)
- State v. Cromwell, 157 Wash. 2d 529, 539, 140 P.3d 593 (2006)
- State v. Crediford, 130 Wash. 2d 747, 755, 927 P.2d 1129 (1996)
- State v. J.P., 149 Wash. 2d 444, 450, 69 P.3d 318 (2003)
- State v. Utter, 4 Wash. App. 137, 139, 479 P.2d 946 (1971)
- State v. Bradshaw, 152 Wash. 2d 528, 532, 98 P.3d 1190 (2004)
- State v. Anderson, 141 Wash. 2d 357, 361, 5 P.3d 1247 (2000)
- State v. Rivas, 126 Wash. 2d 443, 452, 896 P.2d 57 (1995)
- Morissette v. United States, 342 U.S. 246, 256 n. 14, 72 S. Ct. 240, 96 L. Ed. 288 (1952)
- State v. Boyer, 91 Wash. 2d 342, 344, 588 P.2d 1151 (1979)
- State v. Hall, 54 Wash. 142, 144, 102 P. 888 (1909)
- Martin v. State, 31 Ala. App. 334, 335, 17 So. 2d 427 (1944)
- Fontaine v. State, 135 Md. App. 471, 762 A.2d 1027 (2000)
- State v. Tippetts, 180 Or. App. 350, 43 P.3d 455 (2002)
- State v. Cantu, 156 Wash. 2d 819, 822, 826, 132 P.3d 725 (2006)
- State v. Deal, 128 Wash. 2d 693, 700, 911 P.2d 996 (1996)
- State v. Hanna, 123 Wash. 2d 704, 710, 871 P.2d 135 (1994)
- State v. Eaton, 143 Wash. App. 155, 160-165, 177 P.3d 157 (2008)