

SUPREME COURT OF CONNECTICUT

State v. Swebilius, 325 Conn. 793

159 A.3d 1099 (2017) · No. SC 19526 · Decided May 30, 2017

SUMMARY

The Connecticut Supreme Court held that an arrest warrant issued within the applicable criminal statute of limitations must be executed without unreasonable delay to toll the limitations period. Once a defendant demonstrates availability and nonelusiveness during the statutory period, the state must explain why the delay in executing the warrant was reasonable; the case was remanded for that determination.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Palmer, J.; Rogers, C. J.; Eveleigh, J.; McDonald, J.; Espinosa, J.; Robinson, J.
JURISDICTION	Connecticut
DECIDED	May 30, 2017
DOCKET	SC 19526
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant appealed from the Appellate Court's affirmance of the trial court's denial of his motion to dismiss a child-pornography prosecution as barred by the statute of limitations. The Supreme Court granted certification limited to whether the Appellate Court properly affirmed that ruling.
STANDARD OF REVIEW	The Supreme Court reviewed the legal conclusion that the delay was reasonable as a matter of law de novo, while factual findings underlying the decision were subject to clear-error review.
PRECEDENTIAL VALUE	precedential
PARTIES	Jon Swebilius v. State of Connecticut

TOPICS

- criminal procedure
- statutory interpretation
- plain meaning rule

PRACTICE AREAS

criminal procedure

statute of limitations

arrest warrants

appellate review

QUESTIONS PRESENTED

1. Whether issuance of an arrest warrant within the statutory limitations period tolls the statute when the warrant is executed after the limitations period expires.
2. Whether a thirty-two-day delay in executing an arrest warrant may be deemed reasonable as a matter of law solely because of its brevity.
3. Whether, after a defendant demonstrates availability and nonelusiveness during the limitations period, the burden shifts to the state to demonstrate that the delay in executing the warrant was not unreasonable.

HOLDINGS

1. A delay in executing an arrest warrant cannot be deemed reasonable as a matter of law solely because it is brief. Reasonableness must be determined case by case based on the circumstances, including the defendant's conduct and the state's diligence.
2. Once a defendant demonstrates that he or she was available and nonelusive during the statutory period, the defendant has satisfied the required burden concerning the statute-of-limitations defense, and the burden shifts to the state to demonstrate that the delay in executing the warrant was not unreasonable.
3. The lower courts applied an incorrect legal standard by relying solely on the length of the delay. The state must be given an opportunity to present evidence that it made reasonable efforts to execute the warrant before expiration or that its failure to do so was reasonable under the circumstances.

KEY QUOTATIONS

“Accordingly, we determined that, “in order to toll the statute of limitations, an arrest warrant, when issued within the time limitations of § 54-193 (b), must be executed without unreasonable delay.”” (202 Conn. 450–51)

“A reasonable period of time is a question of fact that will depend on the circumstances of each case.” (202 Conn. 451)

“Accordingly, once a defendant has demonstrated his availability and nonelusiveness during the statutory period, the state must then demonstrate the reasonableness of any delay between the issuance and the service of an arrest warrant, at least when service occurs after the expiration of the limitation period.”

FACTUAL BACKGROUND

Connecticut State Police searched the defendant's residence on May 28, 2008, seized computer-related items, and submitted them to the state forensic laboratory. The police did not receive the forensic results until April 2, 2013, and obtained an arrest warrant on May 9, 2013, nineteen days before the five-year limitations period expired. The defendant lived openly in Connecticut and remained available for arrest; he voluntarily surrendered

on June 10, 2013, thirty-two days after issuance of the warrant and thirteen days after expiration of the limitations period.

PROCEDURAL HISTORY

Police obtained an arrest warrant within the five-year limitations period, but the warrant was executed thirty-two days after issuance and thirteen days after the limitations period expired. The defendant moved to dismiss, and after entering a conditional nolo contendere plea, presented uncontested evidence that he had remained available and nonelusive; the state presented no evidence explaining the delay. The trial court denied the motion, and the Appellate Court affirmed, holding the delay reasonable as a matter of law. The Supreme Court reversed and remanded for a hearing applying the proper standard.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Appellate Court's judgment and direct it to reverse the trial court's judgment and remand the case to the trial court for further proceedings. On remand, the state must have an opportunity to demonstrate that it made reasonable efforts to execute the warrant before expiration of the statute of limitations or to explain why its failure to do so was reasonable under the circumstances.

CASES CITED

- State v. Crawford, 202 Conn. 443, 521 A.2d 1034 (1987)
- State v. Kruelski, 41 Conn. App. 476, 677 A.2d 951 (1996)
- State v. Soldi, 92 Conn. App. 849, 887 A.2d 436 (2005)
- State v. Woodtke, 130 Conn. App. 734, 25 A.3d 699 (2011)
- State v. Figueroa, 235 Conn. 145, 665 A.2d 63 (1995)
- State v. Ali, 233 Conn. 403, 660 A.2d 337 (1995)
- Toussie v. United States, 397 U.S. 112, 90 S. Ct. 858, 25 L. Ed. 2d 156 (1970)
- State v. Whiteman, 204 Conn. 98, 526 A.2d 869 (1987)
- United States v. Marion, 404 U.S. 307, 92 S. Ct. 455, 30 L. Ed. 2d 468 (1971)
- State v. Almeda, 211 Conn. 441, 560 A.2d 389 (1989)
- State v. Derks, 155 Conn. App. 87, 108 A.3d 1157 (2015)
- State v. Henriquez, Superior Court, judicial district of New Haven, Docket Nos. CR-09-96308 and CR-09-96309 (February 4, 2011)

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