

SUPREME COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania v. Ryan Pownall

Commonwealth v. Pownall · No. 17 EAP 2021 · Decided July 20, 2022

SUMMARY

This dissenting opinion addresses whether the Commonwealth may pursue an interlocutory appeal under Pennsylvania’s collateral order doctrine from the denial of a motion challenging the constitutionality of the peace-officer justification defense in 18 Pa.C.S. § 508(a)(1). Justice Wecht concludes that the constitutional and statutory-interpretation questions are separable from the merits of the criminal prosecution and that the appeal should not have been quashed. The opinion would proceed to consider whether Section 508(a)(1) conflicts with the Fourth Amendment as interpreted in *Tennessee v. Garner*.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| COURT                 | Supreme Court of Pennsylvania                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Justice David Wecht                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| JURISDICTION          | Pennsylvania                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DECIDED               | July 20, 2022                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 17 EAP 2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | The Commonwealth sought interlocutory review under Pennsylvania's collateral order doctrine of a pretrial order denying its motion in limine to prevent Ryan Pownall from invoking the peace-officer justification defense under 18 Pa.C.S. § 508(a)(1). The Superior Court quashed the appeal for lack of separability, and the Commonwealth appealed to the Supreme Court of Pennsylvania. Justice Wecht dissented from the Supreme Court majority's decision to uphold the quashal. |
| STANDARD OF REVIEW    | Whether an order qualifies as a collateral order under Pa.R.A.P. 313 is a question of appellate jurisdiction reviewed under the three-pronged collateral-order test: separability, importance, and irreparable loss. The statutory-interpretation and constitutional questions discussed in the dissent are questions of law.                                                                                                                                                          |
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|---------------------------|-------------------------------------------------------------------------------------------------------------|
| <b>PRECEDENTIAL VALUE</b> | Nonprecedential as to the legal propositions advocated in the dissent; the opinion is a dissenting opinion. |
| <b>PARTIES</b>            | Commonwealth of Pennsylvania v. Ryan Pownall                                                                |

## TOPICS

interlocutory appeal appellate jurisdiction appellate procedure fourth amendment statutory interpretation

## PRACTICE AREAS

criminal procedure constitutional law appellate procedure police use of force

## QUESTIONS PRESENTED

1. Whether the trial court's denial of the Commonwealth's motion in limine was immediately appealable under Pennsylvania's collateral order doctrine.
2. Whether the Commonwealth's constitutional challenge to 18 Pa.C.S. § 508(a)(1) was separable from the merits of Pownall's criminal prosecution.
3. Whether the forcible-felony and deadly-weapon alternatives in 18 Pa.C.S. § 508(a)(1) are unconstitutional under the Fourth Amendment because they permit deadly force without requiring circumstances demonstrating an immediate threat of death or serious bodily injury.
4. Whether judicially narrowing or invalidating portions of the statutory justification defense would implicate ex post facto protections.

## HOLDINGS

1. The Commonwealth's constitutional and statutory-interpretation challenge to the peace-officer justification defense is conceptually and factually distinct from Pownall's guilt or innocence and therefore satisfies the separability prong of Pa.R.A.P. 313.
2. The Commonwealth's challenge satisfies the importance and irreparable-loss prongs of the collateral order doctrine because the Commonwealth would have no later opportunity to obtain appellate review of the statutory challenge after either an acquittal or a conviction.
3. The forcible-felony and deadly-weapon alternatives in 18 Pa.C.S. § 508(a)(1) are unconstitutional under the Fourth Amendment because they authorize deadly force based solely on the officer's belief that the fleeing suspect committed a forcible felony or possesses a deadly weapon, without requiring facts showing that the suspect poses an immediate threat of death or serious bodily injury.
4. Even if portions of Section 508(a)(1) are unconstitutional, Pownall could not be deprived retroactively of the statutory justification defenses available when the alleged conduct occurred.

## KEY QUOTATIONS

*“A claim is “significantly different” from the underlying issue “if it can be resolved without an analysis of the merits of the underlying dispute.”” (at 7)*

*“Put simply, regardless of how Pownall’s bell tolls, on this question that bell “cannot be unrung by a later appeal.”” (at 13)*

*“Garner’s general principle that lethal force is justified only when the officer reasonably believes it is necessary to protect himself or others from serious physical harm is still good law.” (at 18)*

*“The word “or” does not preclude multiple listed conditions from triggering an event, but there is no reasonable construction of “or” that requires multiple conditions.” (at 24)*

## FACTUAL BACKGROUND

The Commonwealth charged former Philadelphia police officer Ryan Pownall with offenses arising from his fatal shooting of David Jones. Anticipating that Pownall would invoke the peace-officer justification defense, the Commonwealth sought to bar the suggested jury instruction implementing 18 Pa.C.S. § 508(a)(1), arguing that the statute authorizes deadly force in circumstances inconsistent with the Fourth Amendment as interpreted in *Tennessee v. Garner*. The trial court denied the motion in limine before trial.

## PROCEDURAL HISTORY

Pownall was charged in the Philadelphia County Court of Common Pleas with criminal homicide, possession of an instrument of a crime, and recklessly endangering another person arising from the fatal shooting of David Jones. Before trial, the Commonwealth challenged the constitutionality of the statutory peace-officer justification defense and proposed an alternative jury instruction. The trial court denied the motion in limine. The Commonwealth appealed before trial; the Superior Court quashed the appeal, and the Supreme Court majority likewise concluded that the order was not separable from the criminal merits. Justice Wecht would have permitted the interlocutory appeal and reached the constitutional merits.

## DISPOSITION

affirmed

## CASES CITED

- *Tennessee v. Garner*, 471 U.S. 1 (1985)
- *Scott v. Harris*, 550 U.S. 372 (2007)
- *Plumhoff v. Rickard*, 572 U.S. 765 (2014)
- *Pridgen v. Parker Hannifin Corp.*, 905 A.2d 422 (Pa. 2006)
- *Brooks v. Ewing Cole, Inc.*, 259 A.3d 359 (Pa. 2021)
- *Commonwealth v. Williams*, 86 A.3d 771 (Pa. 2014)
- *Commonwealth v. Shearer*, 882 A.2d 462 (Pa. 2005)
- *Shearer v. Hafer*, 177 A.3d 850 (Pa. 2018)
- *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949)
- *Johnson v. Jones*, 515 U.S. 304 (1995)
- *Bell v. Beneficial Consumer Discount Co.*, 348 A.2d 734 (Pa. 1975)

- Commonwealth v. Harris, 32 A.3d 243 (Pa. 2011)
- Geniviva v. Frisk, 725 A.2d 1209 (Pa. 1999)
- Commonwealth v. Gibbons, 784 A.2d 776 (Pa. 2001)
- Commonwealth v. Polo, 759 A.2d 372 (Pa. 2000)
- Commonwealth v. Ramos, 83 A.3d 86 (Pa. 2013)
- Commonwealth v. Bell, 211 A.3d 761 (Pa. 2019)
- Commonwealth v. Batts, 66 A.3d 286 (Pa. 2013)
- Seila Law LLC v. Consumer Financial Protection Bureau, Seila Law LLC v. Consumer Financial Protection Bureau, 140 S. Ct. 2183 (2020)
- Brosseau v. Haugen, 543 U.S. 194 (2004)
- Jefferson v. Lias, 21 F.4th 74 (3d Cir. 2021)
- Perez v. Suszczyński, 809 F.3d 1213 (11th Cir. 2016)
- Stewart v. City of Euclid, 970 F.3d 667 (6th Cir. 2020)
- Abraham v. Raso, 183 F.3d 279 (3d Cir. 1999)
- Commonwealth v. Hopkins, 117 A.3d 247 (Pa. 2015)
- Commonwealth v. Hicks, 208 A.3d 916 (Pa. 2019)
- Collins v. Youngblood, 497 U.S. 37 (1990)
- Beazell v. Ohio, 269 U.S. 167 (1925)
- Kennedy v. Louisiana, 554 U.S. 407 (2008)
- Torres v. Madrid, 141 S. Ct. 989 (2021)