

SUPREME COURT OF NORTH DAKOTA

State v. Pittenger

2019 ND 22 · No. 20170279 · Decided January 15, 2019

SUMMARY

The North Dakota Supreme Court reversed Alexander Pittenger’s criminal judgment for corruption or solicitation of a minor. The court held that closing the courtroom during the juvenile complaining witness’s testimony, without conducting the required analysis, findings, or consideration of alternatives, violated the constitutional right to a public trial and constituted structural error requiring automatic reversal.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Daniel J. Crothers; Lisa Fair McEvers; Jon J. Jensen; Jerod E. Tufte; Gerald W. VandeWalle, Chief Justice
JURISDICTION	North Dakota
DECIDED	January 15, 2019
DOCKET	20170279
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from a criminal judgment entered on a jury verdict finding Pittenger guilty of corruption or solicitation of a minor and from an order denying a motion to dismiss.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Alexander Justin Pittenger v. State of North Dakota

TOPICS

- sixth amendment
- criminal procedure
- appellate procedure
- constitutional law

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court's closure of the courtroom during the complaining witness's testimony violated Pittenger's constitutional right to a public trial.
2. Whether the courtroom closure constituted structural error requiring automatic reversal of the criminal judgment.

HOLDINGS

1. A trial court may not close a courtroom to the public without conducting the required analysis, including consideration of the overriding interest asserted, the scope of the closure, reasonable alternatives, and findings adequate to support the closure.
2. Denial of the right to a public trial without proper analysis is structural error requiring automatic reversal of the criminal judgment.

KEY QUOTATIONS

“Denial of the right to a public trial without proper analysis is a structural error requiring automatic reversal.” (¶ 4)

“The district court did not conduct a hearing, make findings, or analyze the appropriate factors, and considered only that the complaining witness was a minor.” (¶ 8)

FACTUAL BACKGROUND

Pittenger was tried and convicted of class A misdemeanor corruption or solicitation of a minor under N.D.C.C. § 12.1-20-05. During the testimony of the juvenile complaining witness, the district court ordered the courtroom cleared and locked, allowing only participants in the proceedings and a representative from the State's Attorney's office to remain. The court did not conduct a hearing, make findings, or analyze the constitutional and statutory factors governing courtroom closure.

PROCEDURAL HISTORY

A jury convicted Pittenger of class A misdemeanor corruption or solicitation of a minor. The district court closed the courtroom during the juvenile complaining witness's testimony over Pittenger's objection. During the appeal, the Supreme Court temporarily remanded the matter for consideration of an appropriate motion under the parties' stipulation that structural error had occurred. The district court denied the State's motion to dismiss, and the case returned to the Supreme Court.

DISPOSITION

reversed

CASES CITED

- State v. Rogers, 2018 ND 244, ¶¶ 3, 6, 15, 919 N.W.2d 193
- State v. Decker, 2018 ND 43, ¶¶ 8-9, 907 N.W.2d 378
- Waller v. Georgia, 467 U.S. 39, 48 (1984)

