

SUPREME COURT OF WASHINGTON

In re Personal Restraint Petition of Dalluge

100 P.3d 279, 152 Wash. 2d 772 (Wash. 2004) · No. No. 73608-1 · Decided November 4, 2004

SUMMARY

The Washington Supreme Court held that an adult criminal court lacked jurisdiction over Amel Dalluge after amended charges eliminated automatic adult-court jurisdiction without a juvenile-court decline hearing. The court further held that Dalluge's appellate counsel was ineffective for failing to raise the jurisdictional issue on direct appeal. The petition was granted and the matter was remanded for a de novo Dillenburg hearing to determine whether juvenile jurisdiction should have been declined.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Bridge, J.; Alexander, C.J.; Sanders, J.; Chambers, J.; Owens, J.; Fairhurst, J.; Madsen, J.; Johnson, J.; Ireland, J.
JURISDICTION	Washington
DECIDED	November 4, 2004
DOCKET	No. 73608-1
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Dalluge sought collateral relief through a personal restraint petition after being convicted in adult criminal court. The Washington Supreme Court granted review of issues concerning the absence of a juvenile-court decline hearing and ineffective assistance of counsel, and also addressed whether the petition was barred by the one-year collateral-attack limitation period.
STANDARD OF REVIEW	On collateral review, the petitioner must show actual and substantial prejudice from constitutional error or a fundamental defect. For ineffective assistance of appellate counsel, the petitioner must show that the omitted issue had merit and that counsel's omission caused actual prejudice.
PRECEDENTIAL VALUE	Published, en banc Washington Supreme Court opinion; precedential.
PARTIES	Amel W. Dalluge v. State of Washington

TOPICS

state post-conviction relief criminal procedure appellate procedure ineffective assistance
statutory interpretation

PRACTICE AREAS

criminal procedure appellate procedure post-conviction relief juvenile justice
ineffective assistance of counsel statutory interpretation

QUESTIONS PRESENTED

1. Whether Dalluge's personal restraint petition was barred by RCW 10.73.090 because it was filed more than one year after the judgment became final.
2. Whether the adult criminal court lacked jurisdiction after the State amended the information to charges that no longer triggered automatic adult-court jurisdiction without a juvenile-court decline hearing.
3. Whether the absence of a decline hearing could be waived by Dalluge's failure to object or request remand.
4. Whether Dalluge was prejudiced by appellate counsel's failure to raise the adult court's lack of jurisdiction on direct appeal.
5. What remedy was appropriate for the failure to conduct a decline hearing.

HOLDINGS

1. The petition was not barred by RCW 10.73.090 because the judgment and sentence were not rendered by a court of competent jurisdiction.
2. Absent automatic decline, an actual juvenile-court decline hearing, or a valid waiver confirmed through a substitute Dillenburg hearing, the adult criminal court lacks jurisdiction over a juvenile proceeding.
3. The decline-hearing requirement was not waived merely by Dalluge's silence or failure to request remand; waiver required either a juvenile-court decline hearing or a substitute Dillenburg hearing, and the recognized waiver circumstances involved intentional deception.
4. Dalluge received ineffective assistance of appellate counsel because counsel failed to raise the meritorious issue that the adult trial court should have remanded the case for a decline hearing, and Dalluge was prejudiced by that omission.
5. Because Dalluge was over 18, the proper remedy was remand to superior court for a de novo Dillenburg hearing on whether declination of juvenile jurisdiction would have been appropriate.

KEY QUOTATIONS

"Thus, the plain language of RCW 13.04.030(1) requires juvenile court jurisdiction in certain cases." (at 283)

"In sum, the relevant statutory language and this court's case law do not allow waiver of juvenile jurisdiction absent either a decline hearing in juvenile court or a substitute Dillenburg hearing." (at 285)

“The personal restraint petition is granted, the Court of Appeals is reversed, and this matter is remanded to superior court for a decline hearing consistent with the procedure set forth in Dillenburg.” (at 288)

FACTUAL BACKGROUND

When he was 17, Amel Dalluge participated in the rape of a heavily intoxicated 15-year-old girl after she was taken to a remote location. The State initially charged Dalluge with serious violent offenses that automatically placed the case within adult criminal court jurisdiction. After the information was amended to charges that no longer triggered automatic adult jurisdiction, including a class A felony, neither party requested a remand to juvenile court and no decline hearing occurred.

PROCEDURAL HISTORY

Dalluge was convicted in adult superior court of two counts of third-degree rape. The Court of Appeals affirmed the convictions but remanded for resentencing; it later affirmed the amended sentence. Dalluge then filed a personal restraint petition, which the Court of Appeals dismissed on the merits. The Washington Supreme Court reversed and remanded for a de novo Dillenburg hearing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals was reversed, and the matter was remanded to superior court for a decline hearing consistent with Dillenburg. Because Dalluge was over 18, the hearing was to be a de novo hearing in adult superior court. If declination would have been appropriate, the convictions stand; otherwise, the convictions must be set aside and a new adult-court trial held.

CASES CITED

- Dillenburg v. Maxwell, 70 Wash. 2d 331, 413 P.2d 940, 422 P.2d 783 (1966)
- In re Pers. Restraint of Lord, 123 Wash. 2d 296, 868 P.2d 835 (1994)
- In re Pers. Restraint of Maxfield, 133 Wash. 2d 332, 945 P.2d 196 (1997)
- State v. Werner, 129 Wash. 2d 485, 918 P.2d 916 (1996)
- State v. Golden, 112 Wash. App. 68, 47 P.3d 587 (2002)
- State v. Mora, 138 Wash. 2d 43, 977 P.2d 564 (1999)
- Sheppard v. Rhay, 73 Wash. 2d 734, 440 P.2d 422 (1968)
- State v. Mendoza-Lopez, 105 Wash. App. 382, 19 P.3d 1123 (2001)
- State v. Anderson, 83 Wash. App. 515, 922 P.2d 163 (1996)
- Nelson v. Seattle Mun. Court, 29 Wash. App. 7, 627 P.2d 157 (1981)
- State v. Pritchard, 79 Wash. App. 14, 900 P.2d 560 (1995)
- State v. Dixon, 114 Wash. 2d 857, 792 P.2d 137 (1990)

- In re Personal Restraint of Frampton, 45 Wash. App. 554, 726 P.2d 486 (1986)
- Evitts v. Lucey, 469 U.S. 387, 105 S. Ct. 830, 83 L. Ed. 2d 821 (1985)
- Smith v. Robbins, 528 U.S. 259, 120 S. Ct. 746, 145 L. Ed. 2d 756 (2000)
- Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)
- In re Boot, 130 Wash. 2d 553, 925 P.2d 964 (1996)
- Skagit Surveyors & Eng'rs, LLC v. Friends of Skagit County, 135 Wash. 2d 542, 958 P.2d 962 (1998)
- Lewis County v. W. Wash. Growth Mgmt. Hr'gs Bd., 113 Wash. App. 142, 53 P.3d 44 (2002)
- State v. Salavea, 151 Wash. 2d 133, 86 P.3d 125 (2004)
- Kent v. United States, 383 U.S. 541, 86 S. Ct. 1045, 16 L. Ed. 2d 84 (1966)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/washington-supreme-court-of-washington/2004/in-re-personal-restraint-petition-of-dalluge-f47m9en4>