

DISTRICT OF COLUMBIA COURT OF APPEALS

Lewis v. United States

871 A.2d 470 (D.C. 2005) · Decided April 7, 2005

SUMMARY

The District of Columbia Court of Appeals affirmed the denial of Sean Brown and Sophia Lewis’s motions to dismiss weapons-related charges based on statutory immunity for voluntarily and peaceably surrendering firearms and ammunition. The court held that Lewis presented no evidence of a clear and unequivocal intent to surrender the items, and that Brown failed to satisfy the statutory requirements because one firearm was loaded and his conduct was ambiguous. The court also confirmed jurisdiction over the interlocutory appeal.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Ferren, Senior Judge; Ferren; Reid; Schwelb
JURISDICTION	District of Columbia
DECIDED	April 7, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from the denial of pretrial motions to dismiss a criminal information on the ground of statutory immunity under D.C. Code § 7-2507.05(a).
STANDARD OF REVIEW	De novo review applies to the legal question whether statutory immunity exists, with deference to factual determinations inherent in resolving that question.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Sean Brown, Sophia Lewis v. United States

TOPICS

- criminal procedure
- statutory interpretation
- appellate jurisdiction
- interlocutory appeal
- appellate procedure

PRACTICE AREAS

- criminal procedure
- statutory immunity
- firearms and weapons offenses
- interlocutory appellate jurisdiction

QUESTIONS PRESENTED

1. Whether Brown was entitled to immunity from arrest and prosecution under D.C. Code § 7-2507.05(a) when one firearm was loaded and his conduct did not clearly and unequivocally demonstrate an intent to deliver and abandon the weapons and ammunition to police.
2. Whether Lewis was entitled to statutory immunity based on her own conduct or derivatively on any immunity that might have been available to Brown.
3. Whether denial of a pretrial motion to dismiss on statutory-immunity grounds was immediately appealable.

HOLDINGS

1. Denial of a motion to dismiss on grounds of statutory immunity supports an interlocutory appeal, giving the court jurisdiction over the pretrial matter.
2. Lewis was not entitled to statutory immunity because the record contained no evidence that she clearly and unequivocally intended to deliver and abandon the weapons and ammunition to police or took any step to satisfy the statutory surrender requirements.
3. Brown was not entitled to immunity because he failed to prove both compliance with the statute's surrender requirements and a clear and unequivocal intent to deliver and abandon the firearms and ammunition to police.
4. The court declined to construe D.C. Code § 7-2507.05(a) broadly to provide immunity for the Title 22 prohibited-weapon offenses because Brown failed to establish immunity for the Title 7-related unregistered-firearm and unlawful-ammunition offenses.

KEY QUOTATIONS

“In addition, we have said that evidence of an individual’s intent to “deliver and abandon” the weapon must be “clear and unequivocal.”” (at 474)

“Based on the testimony of record, we conclude that the trial court did not err in crediting the officers’ testimony over that of Brown and finding that Brown’s actions on the evening of January 31 were ambiguous at best — that they were consistent as much with an effort to conceal or remove the weapons and ammunition as with an intention to surrender them.” (at 476)

FACTUAL BACKGROUND

After Brown's arrest on weapons charges, officers advised him that weapons and ammunition could be surrendered at a police station and that firearms had to be unloaded and wrapped. The next day, Brown gathered three firearms and ammunition into a red duffel bag, but one firearm was loaded, and officers observed him approach and retreat from his home while carrying the bag after police arrived to secure the residence. Officers later searched the home with Brown's and Lewis's consent and found the firearms and ammunition, including a firearm loaded with thirteen rounds; neither appellant clearly told the officers that the items were being surrendered.

PROCEDURAL HISTORY

Brown and Lewis were charged with possession of prohibited weapons, possession of unregistered firearms, and unlawful ammunition. Brown moved to dismiss on statutory-immunity grounds, and Lewis joined, arguing that any immunity available to Brown was imputable to her. After an evidentiary hearing, the trial court denied the motions, finding that Brown had not complied with the statutory surrender requirements and had not shown a clear and unequivocal intent to surrender the weapons. The District of Columbia Court of Appeals accepted interlocutory jurisdiction and affirmed.

DISPOSITION

affirmed

CASES CITED

- Yoon v. United States, 594 A.2d 1056, 1066 (D.C. 1991)
- Stein v. United States, 532 A.2d 641, 643-44, 646-47 (D.C. 1987), cert. denied, 485 U.S. 1010 (1988)
- Davis v. United States, 564 A.2d 31, 35 (D.C. 1989) (en banc)
- Mitchell v. Forsyth, 472 U.S. 511, 528-29 (1985)
- Kuhn v. Cissel, 409 A.2d 182, 186-87 (D.C. 1979)