

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Estman

591 Pa. 116 (Pa. 2007) (Pa. 2007) · Decided February 21, 2007

SUMMARY

The Supreme Court of Pennsylvania held that 42 Pa.C.S. § 9303, which permits prosecution under both general and specific criminal statutes, could not be applied retroactively to conduct occurring before the statute's effective date. The Court affirmed dismissal of the general felony theft charges against Barbara Jean Estman, concluding that the statute substantively affected defendants' rights. Justice Eakin, joined by Justice Castille, concurred separately and argued that Commonwealth v. Lussi had been wrongly decided.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Baldwin; Chief Justice Cappy; Justice Castille; Justice Saylor; Justice Eakin; Justice Baer
JURISDICTION	Pennsylvania
DECIDED	February 21, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Commonwealth appealed the Superior Court's affirmance of the trial court's order dismissing two felony theft charges against Estman. The Supreme Court of Pennsylvania granted allowance of appeal to determine whether 42 Pa.C.S. § 9303 could be applied retroactively to conduct occurring before the statute's effective date.
STANDARD OF REVIEW	De novo review of the legal question whether a statute may be applied retroactively.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Commonwealth of Pennsylvania v. Barbara Jean Estman

TOPICS

- statutory interpretation
- criminal procedure
- ex post facto
- legislative intent
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether 42 Pa.C.S. § 9303, which permits prosecution under multiple general and specific criminal statutes arising from the same conduct, may be applied retroactively to conduct occurring before the statute's effective date.
2. Whether § 9303 is substantive or purely procedural for purposes of Pennsylvania's presumption against retroactive legislation.

HOLDINGS

1. Section 9303 may not be applied retroactively to conduct occurring before its effective date because the statute is substantive and the General Assembly did not clearly and manifestly indicate that it should operate retroactively.

KEY QUOTATIONS

“Following the reasoning in Morabito Auto Sales, Petrovick, and Morris, the statute at issue in the case sub judice is substantive as it defines and regulates the rights of defendants, namely what crimes they may be charged with.” (915 A.2d at 1195)

“Because § 9303 is substantive, it cannot be applied retroactively.” (915 A.2d at 1196)

“No statute shall be construed to be retroactive unless clearly and manifestly so intended by the General Assembly.” (915 A.2d at 1193)

FACTUAL BACKGROUND

Barbara Jean Estman served as a tax collector for Lackawannock Township and the West Middlesex School District from 1987 to 2001. She was arrested on January 16, 2003, and charged with specific tax-collection offenses, embezzlement, theft by failure to make required disposition of funds, theft by deception, and tampering with public records. The general felony theft charges were initially dismissed under *Commonwealth v. Lussi*, but the Commonwealth refiled them after the enactment of 42 Pa.C.S. § 9303, which authorized prosecution under both general and specific criminal statutes.

PROCEDURAL HISTORY

Estman, a former tax collector, was charged with specific tax-collection offenses and general felony theft offenses. A district justice dismissed the general theft charges under *Commonwealth v. Lussi*; after enactment of 42 Pa.C.S. § 9303, the Commonwealth refiled those charges. The trial court dismissed them as impermissibly retroactive, and the Superior Court affirmed. The Supreme Court affirmed the Superior Court.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Lussi, 562 Pa. 621, 757 A.2d 361 (2000)
- Morabito's Auto Sales v. Commonwealth Department of Transportation, 552 Pa. 291, 715 A.2d 384 (1998)
- Petrovick v. Commonwealth Department of Transportation, 559 Pa. 614, 741 A.2d 1264 (1999)
- Commonwealth v. Morris, 565 Pa. 1, 771 A.2d 721 (2001)
- Wroblewski v. Commonwealth Department of Transportation, 570 Pa. 249, 809 A.2d 247 (2002)
- Collins v. Youngblood, 497 U.S. 37, 110 S. Ct. 2715, 111 L. Ed. 2d 30 (1990)
- Commonwealth v. Estman, 868 A.2d 1210 (Pa. Super. Ct. 2005)

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