

WASHINGTON SUPREME COURT

State v. Barton

181 Wash. 2d 148 (2014) · Decided July 31, 2014

SUMMARY

The Washington Supreme Court held that article I, section 20 of the Washington Constitution guarantees a bailable defendant the option to secure bail through a sufficient surety, distinct from depositing cash or other property with the court. The court concluded that the trial court’s order requiring a \$50,000 deposit in cash or other security, while excluding a surety arrangement, violated that constitutional guarantee. It vacated the order and remanded for further proceedings.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	Stephens, J.; Johnson, J.; Owens, J.; Fairhurst, J.; Wiggins, J.; Korsmo, J. Pro Tem.
JURISDICTION	Washington
DECIDED	July 31, 2014
DISPOSITION	vacated
PROCEDURAL POSTURE	Barton sought appellate review of an interlocutory bail order. The Court of Appeals commissioner accepted the parties' stipulation for review under RAP 2.3(b)(4), and the case was transferred to the Washington Supreme Court.
STANDARD OF REVIEW	De novo review applies to the constitutional challenge to the bail order.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential state constitutional interpretation
PARTIES	Peter Barton v. State of Washington

TOPICS

- bail
- criminal procedure
- due process
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal procedure
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether article I, section 20 of the Washington Constitution guarantees a bailable criminal defendant the option to secure bail through a third-party surety arrangement, as distinct from depositing cash or property with the court.
2. Whether the trial court's order requiring a 10 percent cash-or-other-security deposit, without permitting a surety bond, violated article I, section 20 and CrR 3.2.

HOLDINGS

1. Article I, section 20 of the Washington Constitution guarantees a defendant charged with a bailable offense the option to make bail through a sufficient surety arrangement. A surety is a third-party promise or obligation and is distinct from cash or property deposited directly with the court.
2. The trial court's October 18, 2012 order violated article I, section 20 because it required a 10 percent cash-or-other-security deposit without allowing Barton to execute a bond with sufficient solvent sureties.

KEY QUOTATIONS

“Because the federal constitution contains no clause requiring that defendants be bailable by sufficient sureties, this is purely a question of state constitutional law.” (154)

“While this does not mean that a defendant has the right to actually make bail, article I, section 20 guarantees the option of seeking to make bail via a surety, which involves a third-party promise and not merely the deposit of cash or equivalent property.” (162)

“Article I, section 20 of the Washington State Constitution guarantees those accused of bailable offenses the right to access bail by sufficient sureties.” (168)

FACTUAL BACKGROUND

Barton was charged with first degree rape of a child and pleaded not guilty at arraignment. The trial court set bail at \$500,000 and required him to deposit 10 percent, or \$50,000, with the court in cash or other security. The order did not permit Barton to satisfy the bail requirement through a third-party surety arrangement.

PROCEDURAL HISTORY

At arraignment, the trial court set bail and initially required a 10 percent cash deposit. The court later amended the order to require a \$50,000 deposit in cash or other security while excluding a surety-bond option. Barton appealed, and the Washington Supreme Court accepted review to determine whether the order violated article I, section 20 of the Washington Constitution.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court must conduct further proceedings consistent with the opinion and must allow access to a sufficient surety arrangement unless it finds that such an arrangement would not adequately secure Barton's appearance.

CASES CITED

- Westerman v. Cary, 125 Wn.2d 277, 288, 892 P.2d 1067 (1994)
- Wash. Water Jet Workers Ass'n v. Yarbrough, 151 Wn.2d 470, 477, 90 P.3d 42 (2004)
- State v. Paul, 95 Wn. App. 775, 778, 976 P.2d 1272 (1999)
- State v. Banuelos, 91 Wn. App. 860, 861-63, 960 P.2d 952 (1998)
- State v. Kramer, 167 Wn.2d 548, 561, 219 P.3d 700 (2009)
- In re Marriage of Bralley, 70 Wn. App. 646, 653-54, 855 P.2d 1174 (1993)
- State v. Parker, 546 So. 2d 186, 186 (La. 1989)
- State v. Golden, 546 So. 2d 501, 502-03 (La. Ct. App. 1989)
- State v. Brooks, 604 N.W.2d 345, 349-54 (Minn. 2000)
- State ex rel. Jones v. Hendon, 66 Ohio St. 3d 115, 609 N.E.2d 541, 544 (1993)
- People ex rel. Gendron v. Ingram, 34 Ill. 2d 623, 217 N.E.2d 803, 805-06 (1966)
- Burton v. Tomlinson, 19 Or. App. 247, 527 P.2d 123, 126 (1974)
- Fragoso v. Fell, 210 Ariz. 427, 111 P.3d 1027, 1032-33 (2005)
- State v. Briggs, 666 N.W.2d 573, 578-84 (Iowa 2003)
- Two Jinn, Inc. v. District Court, 150 Idaho 647, 249 P.3d 840, 847 (2011)
- State v. Hance, 2006 VT 97, 180 Vt. 357, 910 A.2d 874, 876
- Smith v. Leis, 106 Ohio St. 3d 309, 2005-Ohio-5125, 835 N.E.2d 5, 18
- State v. Jackson, 384 S.W.3d 208, 215 (Mo. 2012)
- City of Yakima v. Mollett, 115 Wn. App. 604, 605, 609-11, 63 P.3d 177 (2003)
- State v. Jorgenson, 179 Wn.2d 145, 150, 312 P.3d 960 (2013)
- Schilb v. Kuebel, 404 U.S. 357, 359-60, 371, 92 S. Ct. 479, 30 L. Ed. 2d 502 (1971)