

SUPREME COURT OF KENTUCKY

Jones v. Commonwealth

279 S.W.3d 522 (Ky. 2009) · No. 2006-SC-000802-DG · Decided March 19, 2009

SUMMARY

The Supreme Court of Kentucky held that KRS 189A.120(1) prohibited the Commonwealth from seeking to amend a fourth-offense DUI charge to a lesser DUI offense when the defendant had refused alcohol testing. The court rejected a distinction between prosecutorial agreement to a defendant's amendment request and a prosecutor's independent motion to amend. It reversed the Court of Appeals, vacated Jones's convictions, and remanded the case.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Chief Justice Minton; Minton, C.J.; Abramson, J.; Cunningham, J.; Noble, J.; Scott, J.; Venters, J.
JURISDICTION	Kentucky
DECIDED	March 19, 2009
DOCKET	2006-SC-000802-DG
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jones entered a conditional guilty plea after the trial court permitted the Commonwealth to amend a fourth-offense DUI charge to second-offense DUI and a third-offense DUI-suspended-license charge to second offense. The Court of Appeals affirmed, and the Supreme Court of Kentucky granted discretionary review.
STANDARD OF REVIEW	De novo review of the interpretation and application of the relevant statutes.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Kentucky; precedential.
PARTIES	Allen David Jones v. Commonwealth of Kentucky

TOPICS

statutory interpretation

plain meaning rule

criminal procedure

appellate procedure

sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether KRS 189A.120(1) prohibits a prosecuting attorney from independently moving to amend a DUI charge to a lesser offense when the defendant has refused an alcohol-concentration test.
2. Whether the absence of an apparent reduction in the defendant's overall possible sentence permits a judicial exception to the prohibition in KRS 189A.120(1).

HOLDINGS

1. KRS 189A.120(1)'s prohibition on a prosecuting attorney agreeing to amend a DUI charge to a lesser offense includes an amendment sought by the Commonwealth itself; the Commonwealth may neither join a defendant's motion nor independently seek such an amendment, subject to the statutory exception concerning unavailable prosecution witnesses.
2. The court may not create a judicial exception to KRS 189A.120(1) merely because the amendment did not appear to reduce the defendant's overall possible sentence.

KEY QUOTATIONS

“By contrast, the proper construction we have given KRS 189A.120(1) causes that statute to stand for the clear and logical proposition that the Commonwealth may not join a defendant's motion to amend DUI-related charges, nor may the Commonwealth seek such an amendment on its own.” (525)

“So we may not graft a judicially created exception onto the simple and plain language of KRS 189A. 120(1) to permit the Commonwealth to agree to the reduction of DUI-related charges so long as the reduction would not reduce a defendant's possible sentence.” (526)

FACTUAL BACKGROUND

Jones was indicted for fourth-offense DUI and related offenses, including driving on a DUI-suspended license and being a persistent felony offender. Jones had refused to submit to an alcohol-concentration test. To avoid an alleged double enhancement involving the DUI charge and the persistent-felony-offender charge, the Commonwealth moved to reduce the DUI charge from fourth offense to second offense and the suspended-license charge from third offense to second offense.

PROCEDURAL HISTORY

A grand jury indicted Jones for fourth-offense DUI, third-offense driving on a DUI-suspended license, second-degree wanton endangerment, driving without insurance, and being a persistent felony offender in the first degree. After Jones challenged the alleged double enhancement, the Commonwealth moved to amend the DUI-related charges, and the trial court permitted the amendments. Jones entered a conditional guilty plea, received suspended sentences and probation, and preserved the amendment issue for appeal. The Court of Appeals affirmed; the Supreme Court reversed, vacated the convictions, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the trial court for proceedings consistent with the opinion after the Supreme Court vacated Jones's convictions.

CASES CITED

- Flynt v. Commonwealth, 105 S.W.3d 415, 424 (Ky. 2003)
- Hoskins v. Maricle, 150 S.W.3d 1, 24 (Ky. 2004)
- Hawley Coal Co. v. Bruce, 252 Ky. 455, 67 S.W.2d 703, 705 (1934)
- Peterson v. Shake, 120 S.W.3d 707, 709 (Ky. 2003)
- Commonwealth v. McKinney, 594 S.W.2d 884, 888 (Ky. App. 1979)
- Bordenkircher v. Hayes, 434 U.S. 357, 98 S. Ct. 663, 54 L. Ed. 2d 604 (1978)