

SUPREME COURT OF SOUTH DAKOTA

State v. Olson-Lame

624 N.W.2d 833, 2001 SD 51 (S.D. 2001) · No. No. 21646 · Decided April 18, 2001

SUMMARY

The Supreme Court of South Dakota affirmed a sentence requiring Marjorie Olson-Lame to reimburse Pennington County for \$1,175 in extradition costs. The court held that the costs were not properly imposed as restitution because the county was not a statutory crime victim, but they were recoverable as costs of prosecution under SDCL 23A-27-26; a concurrence would have affirmed solely because Olson-Lame agreed to pay them in her plea bargain.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gilbertson, Justice; Gilbertson; Miller; Amundson; Konenkamp; Sabers
JURISDICTION	South Dakota
DECIDED	April 18, 2001
DOCKET	No. 21646
DISPOSITION	affirmed
PROCEDURAL POSTURE	Olson-Lame appealed from a criminal judgment and sentence ordering her to reimburse Pennington County for extradition costs.
STANDARD OF REVIEW	Issues not raised below generally are not considered on appeal, but a jurisdictional challenge may be raised for the first time on appeal. The judgment may be upheld if correct for any reason.
PRECEDENTIAL VALUE	Published opinion; precedential South Dakota Supreme Court decision.
PARTIES	Marjorie Olson-Lame v. State of South Dakota

TOPICS

- restitution criminal
- criminal procedure
- plea bargaining
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- criminal procedure
- criminal sentencing
- restitution
- plea bargaining
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the trial court could order Olson-Lame to pay Pennington County's extradition costs as restitution.
2. Whether the extradition costs were recoverable as costs of prosecution under SDCL 23A-27-26.
3. Whether Olson-Lame's failure to object below and agreement in the plea bargain independently supported the award.

HOLDINGS

1. Pennington County was not a statutory victim entitled to restitution for extradition costs, because a county does not fall within the statutory definition of a victim of the defendant's criminal activity.
2. Extradition costs incurred to return a defendant to South Dakota for prosecution are recoverable as costs of that prosecution under SDCL 23A-27-26.
3. The award of \$1,175 to Pennington County was affirmed because, although improper as restitution, it was permissible as prosecution costs.

KEY QUOTATIONS

“Certainly, monies expended to return a defendant to this state for prosecution are recoverable from the defendant as prosecution costs under SDCL 23A-27-26.” (¶ 8)

FACTUAL BACKGROUND

Olson-Lame was arrested in North Carolina after fleeing South Dakota and refusing to waive extradition. The United States Marshals Service transported her to Pennington County at a cost of \$1,175. She subsequently pleaded guilty under an agreement requiring her to pay all prosecution costs and any restitution ordered, and the trial court imposed the extradition costs as part of her sentence.

PROCEDURAL HISTORY

After being extradited to South Dakota, Olson-Lame entered a guilty plea under an agreement that required her to pay all costs of prosecution and any restitution ordered by the court. The trial court imposed a three-year sentence and ordered her to pay, among other amounts, \$1,175 in extradition costs to Pennington County. The Supreme Court of South Dakota affirmed, although it held that the extradition costs were improperly characterized as restitution and were instead recoverable as prosecution costs.

DISPOSITION

affirmed

CASES CITED

- State v. Henjum, 1996 SD 7, ¶ 13, 542 N.W.2d 760, 763
- State v. Ryyth, 2001 SD 50

- State v. No Neck, 458 N.W.2d 364, 365 (S.D. 1990)
- State v. Garnett, 488 N.W.2d 695, 698 (S.D. 1992)
- State v. Sprecher, 2000 SD 17, 606 N.W.2d 138, 139
- State v. Haase, 446 N.W.2d 62, 64 (S.D. 1989)
- State v. Neitge, 2000 SD 37, ¶ 9, 607 N.W.2d 258, 260
- In re C.W., 1997 SD 57, ¶ 14, 562 N.W.2d 903, 906

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