

SUPREME COURT OF COLORADO

Wood v. People

255 P.3d 1136 (Colo. 2011) · No. No. 09SC990 · Decided June 27, 2011

SUMMARY

The Colorado Supreme Court held that a trial court's pretrial denial of immunity under Colorado's "make-my-day" statute, section 18-1-704.5, is not reviewable on appeal after trial. The court concluded that the ruling does not implicate subject matter jurisdiction and becomes subsumed by the jury's verdict. The proper method for obtaining immediate review is a petition under C.A.R. 21 before trial.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Márquez
JURISDICTION	Colorado
DECIDED	June 27, 2011
DOCKET	No. 09SC990
DISPOSITION	affirmed
PROCEDURAL POSTURE	After being convicted of manslaughter, Wood appealed the trial court's denial of his pretrial motion for immunity under Colorado's make-my-day statute. The Colorado Court of Appeals declined to review the pretrial immunity ruling and affirmed. The Colorado Supreme Court granted certiorari and affirmed.
STANDARD OF REVIEW	De novo review of the legal questions concerning subject-matter jurisdiction, finality, appellate reviewability, and mootness.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado
PARTIES	David Henry Wood v. The People of the State of Colorado

TOPICS

appellate procedure interlocutory appeal mootness criminal procedure self defense

PRACTICE AREAS

criminal procedure appellate procedure self-defense

QUESTIONS PRESENTED

1. Whether a trial court's pretrial denial of immunity under Colorado's make-my-day statute, section 18-1-704.5, is reviewable on direct appeal after trial.
2. Whether make-my-day statutory immunity implicates the trial court's subject-matter jurisdiction so that the issue may be raised at any time, including for the first time on appeal.
3. Whether C.A.R. 21 is the proper avenue for immediate review of a pretrial order denying make-my-day immunity.

HOLDINGS

1. A trial court's pretrial denial of immunity from prosecution under section 18-1-704.5 is not reviewable on appeal after trial because the order is not a final judgment and the jury's verdict subsumes the pretrial immunity determination.
2. A defendant's request for immunity under section 18-1-704.5 does not implicate the trial court's subject-matter jurisdiction.
3. A defendant may seek immediate review of a pretrial denial of make-my-day immunity through the Colorado Supreme Court's original jurisdiction under C.A.R. 21, and such review must occur before trial.

KEY QUOTATIONS

"We hold that a trial court's pretrial ruling denying immunity from prosecution under section 18-1-704.5 may not be reviewed on appeal after trial. Rather, the proper avenue for seeking review of such a pretrial order is under C.A.R. 21." (1138)

"In sum, we hold that a trial court's pretrial denial of immunity from prosecution under the 'make-my-day' statute, § 18-1-704.5, is not reviewable on appeal after trial. Rather, the proper avenue for seeking review of such a pretrial ruling is under C.A.R. 21 prior to trial." (1142)

FACTUAL BACKGROUND

Wood allowed James Barnes and a female companion into his apartment to complete a crack-cocaine transaction. Barnes produced fake drugs, demanded payment, and a scuffle followed when Wood asked to sample the drugs. Wood fatally shot Barnes, was charged with first-degree murder, and asserted Colorado's make-my-day statutory immunity and self-defense.

PROCEDURAL HISTORY

Wood was charged with first-degree murder after fatally shooting James Barnes during a drug transaction in Wood's apartment. The trial court denied Wood's pretrial motion to dismiss based on statutory immunity, and Wood did not seek immediate review under C.A.R. 21. After trial, the jury acquitted him of first-degree murder but convicted him of manslaughter. The court of appeals affirmed without reviewing the pretrial immunity ruling, and the Colorado Supreme Court affirmed that decision.

DISPOSITION

affirmed

CASES CITED

- People v. Wood, 230 P.3d 1223, 1225-26 (Colo. App. 2009)
- People v. Guenther, 740 P.2d 971, 975, 977, 980-81 (Colo. 1987)
- People v. Janes, 982 P.2d 300, 302-03 & n.3 (Colo. 1999)
- Horton v. Suthers, 43 P.3d 611, 615 (Colo. 2002)
- Paine, Webber, Jackson & Curtis, Inc. v. Adams, 718 P.2d 508, 513 (Colo. 1986)
- In re A.W., 637 P.2d 366, 374 (Colo. 1981)
- People v. McMurtry, 122 P.3d 237, 241-42 (Colo. 2005)
- E.J.R. v. District Court, 892 P.2d 222, 224 (Colo. 1995)
- People v. Nichelson, 219 P.3d 1064, 1067 (Colo. 2009)
- Paul v. People, 105 P.3d 628, 632-33 (Colo. 2005)
- City of Grand Junction v. City & County of Denver, 960 P.2d 675, 678 (Colo. 1998)
- Holmes v. District Court, 668 P.2d 11, 15 (Colo. 1983)
- Kuypers v. District Court for Fourth Judicial District, 188 Colo. 332, 534 P.2d 1204 (1975)
- People v. Eckert, 919 P.2d 962, 964-65 (Colo. App. 1996)
- People v. Young, 825 P.2d 1004, 1006 (Colo. App. 1991)