

SUPREME COURT OF MISSISSIPPI

Zack Cozar v. State of Mississippi

226 So. 3d 574 (Miss. 2017) · No. 2014-CT-01741-SCT · Decided May 25, 2017

SUMMARY

The Supreme Court of Mississippi held that sentencing Zachary Cozart under an amended manslaughter statute that increased the potential sentence from twenty to thirty years violated the Ex Post Facto Clause. The court concluded that the erroneous sentence constituted plain error affecting substantial rights, reversed the sentence, and remanded for resentencing under the statute in effect when the offense occurred.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Beam, Justice; Waller, C.J.; Dickinson, P.J.; Randolph, P.J.; Kitchens, J.; King, J.; Coleman, J.; Maxwell, J.; Beam, J.
JURISDICTION	Mississippi
DECIDED	May 25, 2017
DOCKET	2014-CT-01741-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Cozart petitioned for certiorari review of the Mississippi Court of Appeals' affirmance of his manslaughter conviction and thirty-year sentence. The Supreme Court of Mississippi granted certiorari on whether sentencing under the amended manslaughter statute violated the Ex Post Facto Clause and whether the issue constituted plain error.
STANDARD OF REVIEW	De novo review applies to whether application of a statute constitutes an ex post facto violation. Plain-error review applies to an unpreserved error affecting a fundamental or substantial right, under the framework of United States v. Olano.
PRECEDENTIAL VALUE	published_binding
PARTIES	Zachary Cozart a/k/a Zachery Cozart a/k/a Zack Cozar v. State of Mississippi

TOPICS

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QUESTIONS PRESENTED

1. Whether imposing a thirty-year sentence under the 2013 amended manslaughter statute for an offense committed in 2010 violated the federal and state Ex Post Facto Clauses.
2. Whether Cozart's failure to object to the manslaughter instruction or sentence waived review of the sentencing error.
3. Whether the sentencing error constituted plain error affecting Cozart's substantial and fundamental rights.

HOLDINGS

1. Cozart's failure to object did not preclude appellate review because the sentence imposed under the later-enacted statute was illegal, implicated a fundamental right, and was not shown to have been a knowingly chosen ameliorative sentencing option.
2. Sentencing Cozart to thirty years under the amended version of Mississippi Code Section 97-3-25 violated the Ex Post Facto Clause because the amendment increased the maximum punishment for conduct committed when the prior statute authorized no more than twenty years.
3. The sentencing error was plain error because it was an obvious legal error that affected Cozart's substantial rights and seriously affected the fairness and integrity of the judicial proceedings.

KEY QUOTATIONS

“An ex post facto law is one which creates a new offense or changes the punishment, to the detriment of the accused, after the commission of the crime.” (§14)

“Finding that application of the revised penalty for manslaughter constitutes an ex post facto violation affecting Cozart’s substantial rights, and that this violation amounted to plain error, we reverse and remand the matter to the circuit court for re-sentencing under Section 97-3-25, as it existed at the time Cozart’s offense occurred.” (§29)

FACTUAL BACKGROUND

Twenty-one-month-old Ethan Connor died on July 1, 2010, and Cozart, the child's mother's paramour, was indicted for capital murder and felonious child abuse. Cozart initially entered an Alford plea to manslaughter but withdrew it before sentencing and proceeded to trial. The jury acquitted him of capital murder and convicted him of manslaughter. The circuit court sentenced him to thirty years under a 2013 amendment that classified certain child killings as child homicide and authorized a sentence of up to thirty years, although the statute in effect when the offense occurred authorized a maximum manslaughter sentence of twenty years.

PROCEDURAL HISTORY

Cozart was indicted in 2011 for capital murder and felonious child abuse arising from the death of a child. He initially entered an Alford plea to manslaughter, later withdrew the plea, and proceeded to a jury trial. The jury acquitted him of capital murder but convicted him of manslaughter, and the circuit court imposed thirty years under the amended manslaughter statute, with fifteen years suspended and ten years of post-release supervision. The Court of Appeals affirmed, finding that Cozart waived his ex post facto objection by submitting and failing to object to the manslaughter instruction. The Supreme Court granted certiorari, reversed the sentence, and remanded for resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must resentence Cozart under Mississippi Code Section 97-3-25 as it existed when the offense occurred, including the applicable maximum twenty-year punishment.

CASES CITED

- North Carolina v. Alford, 400 U.S. 25 (1970)
- Jackson v. State, 965 So. 2d 686, 688 (Miss. 2007)
- Reynolds v. State, 585 So. 2d 753, 756 (Miss. 1991)
- Brown v. State, 731 So. 2d 595, 598 (Miss. 1999)
- Rice v. Merkich, 34 So. 3d 555, 557 (Miss. 2010)
- Knowles v. State, 708 So. 2d 549, 552 (Miss. 1998)
- Collins v. Youngblood, 497 U.S. 37 (1990)
- Johnston v. State, 618 So. 2d 90, 94-95 (Miss. 1993)
- Puckett v. Abels, 684 So. 2d 671, 673 (Miss. 1996)
- Barnett v. State, 725 So. 2d 797, 801 (Miss. 1998)
- Mayers v. State, 42 So. 3d 33, 44 (Miss. Ct. App. 2010)
- Sallie v. State, 155 So. 3d 760 (Miss. 2015)
- Flowers v. State, 35 So. 3d 516, 518 (Miss. 2010)
- Grubb v. State, 584 So. 2d 786, 789 (Miss. 1991)
- Gray v. State, 549 So. 2d 1316, 1321 (Miss. 1989)
- Rowland v. State, 98 So. 3d 1032, 1036 (Miss. 2012)
- Carson v. State, 2016 WL 6822423 (Miss. Nov. 17, 2016)
- United States v. Young, 470 U.S. 1, 15 (1985)
- Smith v. State, 986 So. 2d 290, 294 (Miss. 2008)
- Newport v. Fact Concerts, Inc., 453 U.S. 247, 256 (1981)

- United States v. Olano, 507 U.S. 725, 732, 734-35 (1993)
- In re Guardianship of Duckett, 991 So. 2d 1165, 1183 (Miss. 2008)
- Brown v. State, 690 So. 2d 276, 297 (Miss. 1996)
- Foster v. State, 639 So. 2d 1263, 1289 (Miss. 1994)
- Taylor v. State, 754 So. 2d 598, 603 (Miss. Ct. App. 2000)
- Porter v. State, 749 So. 2d 250, 260-61 (Miss. Ct. App. 1999)
- Walters v. State, 206 So. 3d 524, 531 (Miss. 2016)
- Wilson v. State, 194 So. 3d 855, 874 (Miss. 2016)
- Wells v. State, 202 So. 3d 1230, 1234 (Miss. 2016)
- Calder v. Bull, 3 U.S. 386, 390 (1798)

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