

SUPREME COURT OF COLORADO

In re People v. Nicholas Feyd Greer

2022 CO 5 · No. 21SA286 · Decided January 31, 2022

SUMMARY

The Colorado Supreme Court holds that income from household members who contribute financially to the household must be excluded from an indigency determination when that income is unavailable to the defendant. Applying this rule, the court concludes that Nicholas Feyd Greer lacks the practical means to retain counsel because his parents' income, though used to cover household expenses, is inaccessible to him. The court makes the C.A.R. 21 rule absolute and remands for further proceedings.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Samour; Chief Justice Boatright; Justice Gabriel; Justice Hart; Justice Berkenkotter
JURISDICTION	Colorado
DECIDED	January 31, 2022
DOCKET	21SA286
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Greer petitioned for relief under C.A.R. 21 after the Arapahoe County Court denied his unopposed application for state-funded counsel. The Colorado Supreme Court issued a rule to show cause, exercised original jurisdiction, made the rule absolute, and remanded.
STANDARD OF REVIEW	A court's indigency determination is generally reviewed for abuse of discretion, subject to careful scrutiny because it implicates a basic constitutional right. Whether a defendant is indigent under CJD 04-04, however, is a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Colorado Supreme Court opinion; en banc.
PARTIES	Nicholas Feyd Greer v. The People of the State of Colorado

TOPICS

right to counsel

criminal procedure

appellate jurisdiction

statutory interpretation

constitutional law

PRACTICE AREAS

criminal procedure

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QUESTIONS PRESENTED

1. Whether the Colorado Supreme Court should exercise original jurisdiction under C.A.R. 21.
2. Whether income from household members who contribute monetarily to the household must be included in determining a defendant's indigency when that income is unavailable to the defendant.
3. Whether Greer was indigent and entitled to court-appointed counsel under CJD 04-04 and Colorado law.

HOLDINGS

1. The court exercised original jurisdiction because Greer lacked another adequate remedy and the petition presented an issue of first impression and significant public importance concerning eligibility for court-appointed counsel.
2. Income from members of a defendant's household who contribute monetarily to the household must be excluded from the indigency determination when that income is unavailable to the defendant.
3. Greer was indigent because, considering his complete financial situation, he lacked the necessary funds on a practical basis to retain counsel; his parents' inaccessible income could not be counted against him.

KEY QUOTATIONS

“We now hold that, consistent with the roommates provision, income from members of a defendant’s household who contribute monetarily to the household should be excluded from an indigency determination when such income is unavailable to the defendant.” (§ 6)

“It suffices if a defendant lacks “the necessary funds, on a practical basis, to retain competent counsel.”” (§ 22)

“Any other interpretation would render CJD 04-04 internally inconsistent, not to mention at odds with our jurisprudence, and risk constitutional violations.” (§ 35)

FACTUAL BACKGROUND

Greer was unemployed and reported no income or assets. He and his daughter lived rent-free in his parents' home, and his parents paid the household expenses, but Greer had no access to their bank accounts, credit cards, or other finances and they would not pay for his attorney. The public defender found Greer indigent, but the county court considered the parents' income and concluded that the family had sufficient income to retain counsel.

PROCEDURAL HISTORY

Greer was charged in Arapahoe County Court with careless driving and leaving the scene of an accident. Although he reported no income or assets and the public defender determined that he was indigent, the county court counted his parents' income because he lived rent-free in their home and they paid household expenses.

The county court denied reconsideration, and Greer sought extraordinary relief under C.A.R. 21. The Colorado Supreme Court granted relief and remanded for further proceedings.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The rule was made absolute, and the case was remanded to the Arapahoe County Court for further proceedings consistent with the opinion, including treating Greer as indigent and eligible for court-appointed counsel under the court's interpretation of CJD 04-04.

CASES CITED

- Gideon v. Wainwright, Gideon v. Wainwright, 372 U.S. 335, 344 (1963)
- People v. Sherwood, 2021 CO 61, ¶ 13, 489 P.3d 1233, 1238
- People v. Lucy, 2020 CO 68, ¶ 11, 467 P.3d 332, 335
- People v. Nozolino, 2013 CO 19, ¶ 8, 298 P.3d 915, 918
- Nikander v. District Court, 711 P.2d 1260, 1262-63 (Colo. 1986)
- In re Marriage of Zander, 2021 CO 12, ¶ 13, 480 P.3d 676, 680
- Office of State Court Administrator v. Background Information Services, Inc., 994 P.2d 420, 430-31 (Colo. 1999)
- Argersinger v. Hamlin, 407 U.S. 25, 30-31, 37-38 (1972)
- People v. Alengi, 148 P.3d 154, 159 (Colo. 2006)
- March v. Municipal Court for San Francisco Judicial District, 498 P.2d 437, 442 (Cal. 1972)
- Johnson v. Louisiana, 406 U.S. 380, 393 (1972)
- St. Vrain Valley School District RE-1J v. A.R.L., 2014 CO 33, ¶ 23, 325 P.3d 1014, 1022
- People v. Lucero, 584 P.2d 1208, 1214 (Colo. 1978)