

SUPREME COURT OF ILLINOIS

People v. Hampton

225 Ill. 2d 238 (Ill. 2007) · No. 102413 · Decided April 19, 2007

SUMMARY

The Supreme Court of Illinois held that the appellate court improperly addressed constitutional and other sentencing issues after vacating Willie Hampton’s convictions for a Confrontation Clause violation and remanding for a forfeiture-by-wrongdoing hearing. The court vacated those portions of the appellate judgment as premature or advisory and remanded for the evidentiary hearing. The court did not reach the constitutionality of the 15-year firearm sentencing enhancement.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Kilbride; Chief Justice Thomas; Justice Freeman; Justice Fitzgerald; Justice Garman; Justice Karmeier; Justice Burke
JURISDICTION	Illinois
DECIDED	April 19, 2007
DOCKET	102413
DISPOSITION	vacated
PROCEDURAL POSTURE	The State appealed as of right from an Illinois Appellate Court decision that vacated Hampton's convictions based on a Confrontation Clause violation, remanded for a forfeiture-by-wrongdoing hearing, and also addressed and decided several sentencing issues, including declaring a sentencing enhancement unconstitutional under the Illinois Constitution's proportionate-penalties clause.
STANDARD OF REVIEW	The court reviewed whether the appellate court properly reached and decided constitutional and other sentencing issues after vacating the convictions and remanding for further proceedings.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; precedential
PARTIES	The People of the State of Illinois v. Willie Hampton

TOPICS

- appellate procedure
- sixth amendment
- criminal procedure
- sentencing
- constitutional law

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

constitutional law

sentencing

QUESTIONS PRESENTED

1. Whether the appellate court improperly reached the constitutionality of the fifteen-year firearm sentencing enhancement after vacating Hampton's convictions and remanding for a forfeiture-by-wrongdoing hearing.
2. Whether the appellate court's additional discussions of double enhancement and the one-act, one-crime principle were premature and advisory after the convictions had been vacated.
3. What disposition was appropriate in light of the unresolved confrontation and forfeiture-by-wrongdoing issues.

HOLDINGS

1. A court should not reach and decide a constitutional issue when the case can be resolved without it and the defendant may never again be subject to the challenged law.
2. The appellate court's discussion of issues that might arise only if Hampton were later reconvicted was premature and advisory, and those portions of its judgment had to be vacated.
3. The case had to be remanded to the circuit court for an evidentiary hearing on whether Hampton forfeited his confrontation claim by wrongdoing, while the appellate judgment's other portions had to be vacated.

KEY QUOTATIONS

"cases should be decided on nonconstitutional grounds whenever possible, reaching constitutional issues only as a last resort." (at 4)

"The interest in efficiency or judicial economy, however, does not justify reaching a constitutional issue unnecessarily." (at 5)

"Advisory opinions are to be avoided." (at 5)

FACTUAL BACKGROUND

Hampton was convicted of eight aggravated criminal sexual assaults and two home invasions with a firearm. The appellate court determined that admission of a codefendant's written statement violated Hampton's Sixth Amendment confrontation right under Crawford, but remanded for a factual hearing on whether Hampton had forfeited that right by wrongdoing. The appellate court also addressed sentencing issues, including the constitutionality of a fifteen-year firearm sentencing enhancement, even though Hampton's convictions and sentences had been vacated.

PROCEDURAL HISTORY

Following a bench trial, Hampton was convicted of eight counts of aggravated criminal sexual assault and two counts of home invasion with a firearm and received consecutive and concurrent prison sentences. The appellate

court vacated the convictions based on the admission of a codefendant's statement in violation of Crawford v. Washington, remanded for a hearing on forfeiture by wrongdoing, and addressed additional sentencing issues that could arise after remand. The Illinois Supreme Court held that those additional issues were premature and advisory, dismissed the State's appeal to the extent necessary, vacated the portions of the appellate judgment addressing those issues, and remanded for the forfeiture-by-wrongdoing hearing.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remand to the circuit court for an evidentiary hearing on forfeiture by wrongdoing, with reference to People v. Stechly for guidance in conducting that hearing. The portions of the appellate court's judgment addressing issues other than the confrontation violation and potential forfeiture of that claim are vacated.

CASES CITED

- In re E.H., 224 Ill. 2d 172, 178-79 (2006)
- People v. Waid, 221 Ill. 2d 464, 473 (2006)
- People ex rel. Sklodowski v. State of Illinois, 162 Ill. 2d 117, 131 (1994)
- Hearne v. Illinois State Board of Education, 185 Ill. 2d 443, 456 (1999)
- People v. Lee, 214 Ill. 2d 476, 482 (2005)
- Oliveira v. Amoco Oil Co., 201 Ill. 2d 134, 157 (2002)
- Crawford v. Washington, 541 U.S. 36, 158 L. Ed. 2d 177, 124 S. Ct. 1354 (2004)
- People v. Stechly, No. 97544 (Apr. 19, 2007)

OPINION

KILBRIDE, J.

Docket No. 102413. IN THE SUPREME COURT OF THE STATE OF ILLINOIS THE PEOPLE OF THE STATE OF ILLINOIS, Appellant, v. WILLIE HAMPTON, Appellee. Opinion filed April 19, 2007. JUSTICE KILBRIDE delivered the judgment of the court, with opinion. Chief Justice Thomas and Justices Freeman, Fitzgerald, Garman, Karmeier, and Burke concurred in the judgment and opinion.

OPINION Following a bench trial, defendant Willie Hampton was convicted of several offenses. The appellate court vacated defendant's convictions based on a confrontation clause violation and remanded the matter to the circuit court for a hearing on forfeiture by wrongdoing.

The appellate court also addressed several sentencing issues raised by defendant, including two separate challenges under the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, §11).

The appellate court held one of the applicable sentencing provisions unconstitutional under the proportionate penalties clause. 363 Ill. App. 3d 293. This appeal as of right followed. 210 Ill. 2d R. 317. The State's sole contention on appeal is that the appellate court erred in finding the sentencing provision unconstitutional under the proportionate penalties clause.

We conclude that the appellate court unnecessarily reached this constitutional issue after vacating defendant's convictions and remanding to the circuit court for further proceedings. Thus, we dismiss this appeal and vacate the portion of the appellate court's judgment addressing issues other than the confrontation clause claim and the possible forfeiture of that claim by wrongdoing.

I. BACKGROUND Defendant was convicted of eight counts of aggravated criminal sexual assault (720 ILCS 5/12-14(a)(4), (a)(8) (West 2002)) and two counts of home invasion with a firearm (720 ILCS 5/12-11(a)(3) (West 2002)).

The trial court sentenced him to consecutive terms of 21 years' imprisonment on four of the aggravated criminal sexual assault convictions, for a total of 84 years. Defendant was sentenced to six years' imprisonment on each of the four remaining aggravated criminal sexual assault convictions, to run concurrently with the other sentences. He was also sentenced to 21-year terms on each of the home invasion offenses, to be served concurrently with the other sentences.

On appeal, defendant contended that: (1) the admission of his codefendant's written statement at trial violated his sixth amendment right to confront the witnesses against him (U.S. Const., amend. VI); (2) the 21-year sentences for aggravated criminal sexual assault violated the prohibition against double enhancement; (3) the sentences for aggravated criminal sexual assault violated the proportionate penalties clause; (4) his convictions and sentences on four counts of aggravated criminal sexual assault and one count of home invasion must be vacated based on the one-act, one-crime principle; and (5) his sentence on the remaining home invasion conviction violated the proportionate penalties clause.

363 Ill. App. 3d at 294-95. The appellate court first addressed defendant's claim that his constitutional right to confront the witnesses against him was violated. Defendant based his argument on the Supreme Court's -2- decision in *Crawford v. Washington*, 541 U.S. 36, 158 L. Ed. 2d 177, 124 S. Ct. 1354 (2004). 363 Ill. App. 3d at 299.

The State conceded that admission of the codefendant's statement violated the confrontation clause under *Crawford*, but argued that defendant forfeited his right to confrontation because he wrongfully procured the witness' silence. 363 Ill. App. 3d at 299-300.

The appellate court noted that there were significant disputed questions of fact on the forfeiture issue. 363 Ill. App. 3d at 301. The appellate court refused to resolve those conflicts in the evidence and, instead, remanded to the trial court for an evidentiary hearing on forfeiture by wrongdoing. 363 Ill. App. 3d at 301.

The court concluded that defendant was entitled to a new trial if he did not forfeit his right to confrontation. 363 Ill. App. 3d at 301. Thus, defendant's convictions were vacated, and the matter was remanded for a hearing on forfeiture by wrongdoing. 363 Ill. App. 3d at 312.

The appellate court then asserted that it was required to address the remaining claims raised by defendant "in case the trial court finds on remand that defendant forfeited his right to bring a confrontation clause challenge." 363 Ill. App. 3d at 302.

In addressing the remaining contentions, the court held that defendant's sentences did not violate the prohibition against double enhancement. 363 Ill. App. 3d at 302-05. The appellate court found, however, that under the identical elements test of proportionate penalties review the punishment for aggravated criminal sexual assault while armed with a firearm was disproportionate to the penalty for armed violence predicated on criminal sexual assault.

363 Ill. App. 3d at 305-10. The appellate court noted that section 12-14(d)(1) of the Criminal Code of 1961 (Code) (720 ILCS 5/12-14(d)(1) (West 2002)) contains a 15- year mandatory sentencing enhancement for aggravated criminal sexual assault while armed with a firearm. 363 Ill. App. 3d at 309.

The court held that the 15-year sentencing enhancement, enacted in Public Act 91-404 (Pub. Act 91-404, eff. January 1, 2000), was unenforceable under the proportionate penalties clause because it resulted in a harsher punishment for aggravated criminal sexual assault than the identical offense of armed violence based on criminal sexual assault. 363 Ill. App.

3d at 309-10. The appellate court directed the trial court to sentence defendant in accordance with section 12-14(d)(1) as it existed prior to the amendment by Public -3- Act 91-404 if it found that he was not entitled to a new trial based on the Crawford violation. 363 Ill. App. 3d at 310.

The appellate court also vacated one of the home invasion convictions and four of the aggravated criminal sexual assault convictions based on the one-act, one-crime principle. 363 Ill. App. 3d at 310. Finally, the court held that defendant's 21-year sentence on the remaining home invasion conviction did not violate the proportionate penalties clause. 363 Ill. App.

3d at 310-12. The State appealed as of right because the appellate court declared the statute unconstitutional. 210 Ill. 2d R. 317. II. ANALYSIS On appeal to this court, the State's sole argument is that the appellate court erred in finding the 15-year firearm sentencing enhancement enacted in Public Act 91-404 unconstitutional under the proportionate penalties clause of the Illinois Constitution.

The parties do not raise any challenge to the appellate court's decision vacating defendant's convictions based on the Crawford violation and remanding the matter to the trial court for a hearing on forfeiture by wrongdoing. Shortly after the appellate court's opinion was entered in this

case, this court reaffirmed our long-standing rule that “cases should be decided on nonconstitutional grounds whenever possible, reaching constitutional issues only as a last resort.” In re E.H., 224 Ill. 2d 172, 178 (2006).

We reminded courts that they must avoid reaching constitutional issues when a case can be decided on other, nonconstitutional grounds. In re E.H., 224 Ill. 2d at 178. Constitutional issues should be addressed only if necessary to decide a case. People v. Waid, 221 Ill. 2d 464, 473 (2006), quoting People ex rel. Sklodowski v. State of Illinois, 162 Ill. 2d 117, 131 (1994).

As noted in E.H., this court has gone so far as to add a requirement to our rules that courts include a written statement that the decision cannot rest upon an alternate, nonconstitutional basis before deciding a case on constitutional grounds.

In re E.H., 224 Ill. 2d at 178, citing 210 Ill. 2d R. 18(c)(4) (effective September 1, 2006). Here, after vacating defendant’s convictions, the appellate court went on to address several issues that may arise if defendant were -4- again convicted of the offenses on remand. One of those issues was the proportionate penalties challenge to the 15-year firearm sentencing enhancement contained in section 12–14(d)(1) of the Code.

Defendant was, however, no longer subject to the sentences after the appellate court vacated his convictions. We cannot assume that defendant will be convicted again on remand. If defendant is not convicted of the offenses, he will never be subject to sentencing under the 15-year firearm penalty enhancement enacted in Public Act 91–404.

Thus, it was unnecessary for the appellate court to address this constitutional issue and declare Public Act 91–404 unconstitutional. The appellate court should have declined to address this constitutional issue after vacating defendant’s convictions and remanding for a hearing on forfeiture by wrongdoing.

We note that the State asserted in oral argument that the appellate court correctly reached the proportionate penalties issue because it was more efficient to address it in this appeal. The interest in efficiency or judicial economy, however, does not justify reaching a constitutional issue unnecessarily. Hearne v. Illinois State Board of Education, 185 Ill. 2d 443, 456 (1999).

Unnecessarily addressing a constitutional issue is improper because it may result in compromising the stability of the legal system in the event that the statute is declared unconstitutional when the particular case does not require that action. See In re E.H., 224 Ill. 2d at 179, quoting People v. Lee, 214 Ill. 2d 476, 482 (2005).

The interest in the stability of the legal system outweighs the potential benefit of increased efficiency that may be gained by addressing a constitutional issue before it is necessary to reach it.

We find that the appellate court prematurely considered the constitutionality of the 15-year firearm penalty enhancement under the proportionate penalties clause.

We, therefore, vacate the portion of the appellate court judgment addressing that constitutional issue. We also vacate the remaining portions of the appellate court judgment addressing issues other than the Crawford violation and forfeiture by wrongdoing. One of those additional issues raised a constitutional proportionate penalties claim and was, therefore, not appropriately considered.

While the other arguments on double enhancement and the one-act, one-crime principle may not raise constitutional questions, they were addressed prematurely given the -5- judgment vacating the underlying convictions based on the confrontation clause violation. Those arguments will not be at issue if defendant is not convicted of the offenses on remand.

Thus, the appellate court's discussion of those issues is advisory. Advisory opinions are to be avoided. *Oliveira v. Amoco Oil Co.*, 201 Ill. 2d 134, 157 (2002). The cause is remanded to the circuit court to conduct the evidentiary hearing on forfeiture by wrongdoing.

On remand, we refer the trial court to our recent decision in *People v. Stechly*, No. 97544 (April 19, 2007), for direction on conducting that hearing. III. CONCLUSION For the foregoing reasons, we vacate the portion of the appellate court judgment addressing issues other than the confrontation clause violation and the potential forfeiture of that claim by wrongdoing.

The cause is remanded to the circuit court for an evidentiary hearing on forfeiture by wrongdoing. Vacated and remanded. -6-