

SUPREME COURT OF NEW JERSEY

State of New Jersey v. Charles S. Thomas

195 N.J. 431 (2008) · No. A-62 September Term 2007 · Decided June 26, 2008

SUMMARY

The Supreme Court of New Jersey held that double jeopardy did not bar resentencing because the defendant had appealed and the new sentence did not exceed the original sentence. The court further held that, when seeking a discretionary extended term for multiple offenses, the prosecutor's selection of the offense is entitled to weight but is not dispositive, and the trial court must explain any departure. The court reversed and remanded for the trial judge to explain why the extended term was not applied to the eluding conviction.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Chief Justice Rabner; Justice Long; Justice LaVecchia; Justice Albin; Justice Wallace; Justice Rivera-Soto; Justice Hoens
JURISDICTION	New Jersey
DECIDED	June 26, 2008
DOCKET	A-62 September Term 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed the Appellate Division's sentencing decision granting defendant a reduced aggregate sentence by transferring the extended term from the robbery conviction to the eluding conviction. The Supreme Court of New Jersey granted certification.
STANDARD OF REVIEW	An appellate court may disturb a sentence only when the lower court's exercise of discretion is clearly mistaken; when such error exists, remand to the trial court for resentencing is strongly preferred.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of New Jersey
PARTIES	State of New Jersey v. Charles S. Thomas

TOPICS

- sentencing
- criminal procedure
- appellate procedure
- double jeopardy
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate sentencing

QUESTIONS PRESENTED

1. Whether double jeopardy barred resentencing after defendant had begun serving his original sentence.
2. Whether the prosecutor's identification of the offense for extended-term treatment controlled the sentencing court's selection of the offense.
3. Whether the Appellate Division properly exercised original jurisdiction to select the offense receiving the extended term rather than remanding to the trial court.

HOLDINGS

1. Double jeopardy did not bar resentencing because defendant had appealed his sentence and the new sentence was not greater than the sentence originally imposed.
2. The sentencing judge must give weight to the prosecutor's determination of which offense should receive a discretionary extended term, but the prosecutor's selection is not dispositive. If the judge selects a different offense, the judge must state the reasons on the record.
3. The Appellate Division improperly substituted its judgment for that of the trial judge by exercising original jurisdiction to revise the sentence. When a sentencing court's exercise of discretion is clearly mistaken, the preferred remedy is remand to the trial court for resentencing or explanation.

KEY QUOTATIONS

"because defendant appealed his sentence and because his new sentence is not in excess of that originally imposed, double jeopardy is not implicated." (212)

"Because it is the prosecutor's choice whether to seek an extended term in the first instance, it follows that the trial judge should give weight to the prosecutor's determination regarding which offense is to be subject to an extended term, but that selection is not dispositive." (212)

"If the appellate panel finds that there has been such an error, 'a remand to the trial court for resentencing is strongly to be preferred.'" (213)

FACTUAL BACKGROUND

Thomas was convicted of second-degree robbery, second-degree eluding, possession of a weapon for an unlawful purpose, criminal mischief, resisting arrest, and receiving stolen property. The prosecutor sought a discretionary extended term, identifying the eluding offense as the focus of the application, but the trial judge imposed the extended term on the robbery conviction. The judge did not explain why he selected robbery rather than eluding for extended-term treatment. The Appellate Division revised the sentence itself, prompting the State's certification appeal.

PROCEDURAL HISTORY

Defendant was convicted of multiple offenses, including second-degree robbery and second-degree eluding, and received an aggregate twenty-eight-year sentence with 13.5 years of parole ineligibility. After the Supreme Court reinstated the robbery conviction and remanded for consideration of sentencing arguments, the trial court resentenced defendant to an aggregate sixteen-year sentence with 13.6 years of parole ineligibility. The Appellate Division reversed, exercised original jurisdiction, and imposed an extended term on the eluding conviction while reducing the robbery sentence. The Supreme Court reversed and remanded to the trial court for an explanation of its decision regarding the offense to which the extended term should apply.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial judge for an explanation of why the judge declined to accept the prosecutor's application to apply the extended term to the eluding count, and for proceedings consistent with the court's stated sentencing principles.

CASES CITED

- State v. Thomas, 187 N.J. 119, 138, 900 A.2d 797 (2006)
- State v. Rodriguez, 97 N.J. 263, 277, 478 A.2d 408 (1984)
- State v. Roth, 95 N.J. 334, 344, 363, 471 A.2d 370 (1984)
- United States v. DiFrancesco, 449 U.S. 117, 136, 101 S. Ct. 426, 437, 66 L. Ed. 2d 328, 345 (1980)
- State v. Haliski, 140 N.J. 1, 7, 23, 656 A.2d 1246 (1995)
- State v. Martin, 110 N.J. 10, 16, 538 A.2d 1229 (1988)
- State v. Dunbar, 108 N.J. 80, 87-88, 527 A.2d 1346 (1987)
- State v. Gantt, 101 N.J. 573, 580 n. 1, 503 A.2d 849 (1986)
- State v. Kromphold, 162 N.J. 345, 355, 744 A.2d 640 (2000)
- State v. Jarbath, 114 N.J. 394, 410-11, 555 A.2d 559 (1989)