

SUPREME COURT OF WASHINGTON

State v. Jones, 168 Wash. 2d 713

230 P.3d 576 (2010) · Decided April 15, 2010

SUMMARY

The Washington Supreme Court held that the trial court violated Christopher Jones’s Sixth Amendment right to present a defense by preventing him from testifying about his account of the alleged rape, including an alleged consensual sex party occurring on the night in question. The court held that Washington’s rape shield statute did not apply to the contemporaneous conduct and, in any event, could not exclude evidence of such high probative value. The court reversed and remanded for a new trial and directed the State to refrain from improper comments concerning Jones’s silence and refusal to provide a DNA sample.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Owens, J.; Madsen, C.J.; Johnson, C.; Alexander, J.; Sanders, J.; Chambers, J.; Fairhurst, J.; Johnson, J.M.; Stephens, J.
JURISDICTION	Washington
DECIDED	April 15, 2010
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Washington Supreme Court granted review of a Court of Appeals decision affirming Jones's conviction for second degree rape while remanding for resentencing on an unrelated issue.
STANDARD OF REVIEW	De novo review applies to a claim that the trial court denied the defendant's Sixth Amendment right to present a defense.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	State of Washington v. Christopher Jones

TOPICS

- criminal procedure
- sixth amendment
- evidence
- statutory interpretation
- prosecutorial misconduct

PRACTICE AREAS

- Criminal law
- Criminal procedure
- Evidence
- Constitutional law

QUESTIONS PRESENTED

1. Whether excluding Jones's testimony and cross-examination concerning the alleged sex party violated his Sixth Amendment right to present a defense.
2. Whether Washington's rape shield statute, RCW 9A.44.020(2), applied to evidence concerning sexual conduct occurring contemporaneously with the alleged rape.
3. Whether the constitutional error was harmless beyond a reasonable doubt.
4. Whether the prosecutor's comments concerning Jones's silence and refusal to provide a DNA swab were improper and should be prohibited on remand.

HOLDINGS

1. The trial court violated Jones's Sixth Amendment rights by preventing him from testifying and cross-examining witnesses about the alleged consensual sex party, because that evidence constituted his entire defense and had extremely high probative value.
2. RCW 9A.44.020(2) did not apply to evidence concerning sexual conduct occurring on the night of the alleged rape because the statute addresses the victim's 'past sexual behavior,' not contemporaneous conduct.
3. The constitutional error was not harmless beyond a reasonable doubt.
4. The prosecutor's comments about Jones's failure to contact police and his refusal to provide a DNA swab were improper, and the State was directed not to repeat such arguments on remand.

KEY QUOTATIONS

“This is not marginally relevant evidence that a court should balance against the State’s interest in excluding the evidence. Instead, it is evidence of extremely high probative value; it is Jones’s entire defense.” (168 Wash. 2d at 720)

“Any reading of the statute that conflates “past” with “present” sexual conduct is tortured.” (168 Wash. 2d at 723)

“We go so far as to say that the court’s imprimatur is now upon the State and that such argument is improper and should not be repeated on remand.” (168 Wash. 2d at 725)

FACTUAL BACKGROUND

K.D., Jones's niece, alleged that Jones forcibly raped her after placing his hands around her neck and threatening to kill her. Jones sought to testify that the sexual encounter occurred during an all-night alcohol- and cocaine-fueled gathering at which K.D. consensually had sex with Jones and other men. The trial court excluded that evidence under the rape shield statute, and Jones did not testify. The State presented K.D.'s testimony, evidence that Jones fled to Texas and denied sexual contact, and evidence that he provided a DNA sample only after a court order; Jones was convicted at the second trial.

PROCEDURAL HISTORY

Jones was initially tried on first degree rape charges; the jury acquitted him of first degree rape but could not agree on second degree rape. The State amended the charge before a second trial, at which the trial court excluded Jones's proposed testimony and cross-examination concerning an alleged consensual sex party under Washington's rape shield statute. Jones was convicted of second degree rape with an aggravating circumstance. The Court of Appeals affirmed the conviction, and the Supreme Court granted review.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals decision was reversed and the case was remanded for a new trial. On remand, the State must refrain from arguing that Jones's failure to contact police or his refusal to provide a DNA swab constituted evidence against him.

CASES CITED

- State v. Iniguez, 167 Wn.2d 273, 280-81, 217 P.3d 768 (2009)
- Chambers v. Mississippi, 410 U.S. 284, 294, 93 S. Ct. 1038, 35 L. Ed. 2d 297 (1973)
- State v. Darden, 145 Wn.2d 612, 620, 622, 41 P.3d 1189 (2002)
- Washington v. Texas, 388 U.S. 14, 23, 87 S. Ct. 1920, 18 L. Ed. 2d 1019 (1967)
- State v. Gregory, 158 Wn.2d 759, 786 n.6, 147 P.3d 1201 (2006)
- State v. Hudlow, 99 Wn.2d 1, 8-18, 659 P.2d 514 (1983)
- State v. Sheets, 128 Wn. App. 149, 156-58, 115 P.3d 1004 (2005)
- Cerrillo v. Esparza, 158 Wn.2d 194, 201, 142 P.3d 155 (2006)
- Kilian v. Atkinson, 147 Wn.2d 16, 20, 50 P.3d 638 (2002)
- Chapman v. California, 386 U.S. 18, 24, 87 S. Ct. 824, 17 L. Ed. 2d 705 (1967)
- State v. Smith, 148 Wn.2d 122, 139, 59 P.3d 74 (2002)
- State v. Whelchel, 115 Wn.2d 708, 728, 801 P.2d 948 (1990)
- State v. Jones, 166 Wn.2d 1005, 208 P.3d 1124 (2009)