

SUPREME COURT OF COLORADO

People v. Ziglar

45 P.3d 1266 (Colo. 2002) · No. No. 01SC193 · Decided March 25, 2002

SUMMARY

The Supreme Court of Colorado held that a defendant's admissions during the habitual-criminal sentencing phase may be considered as substantive evidence of prior felony convictions. It concluded that the trial court's modified Curtis advisement was not erroneous and that a second advisement concerning the right to testify was unnecessary. The court reversed the court of appeals and remanded for reinstatement of the defendant's habitual-criminal status.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Kourlis
JURISDICTION	Colorado
DECIDED	March 25, 2002
DOCKET	No. 01SC193
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The People petitioned for review of the Colorado Court of Appeals' decision remanding Ziglar's habitual-criminal conviction because the trial court allegedly gave an incorrect Curtis advisement during the habitual-criminal sentencing phase.
STANDARD OF REVIEW	De novo review of statutory interpretation and the legal requirements for a Curtis advisement.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado, decided en banc.
PARTIES	The People of the State of Colorado v. Daryl C. Ziglar

TOPICS

- sentencing
- criminal procedure
- evidence
- statutory interpretation
- constitutional law

PRACTICE AREAS

- criminal law
- criminal procedure
- evidence
- sentencing

QUESTIONS PRESENTED

1. Whether section 16-13-103 restricts the substantive use of a defendant's admissions of prior felony convictions made while testifying during the habitual-criminal sentencing phase.
2. Whether the trial court erred by giving a modified Curtis advisement informing Ziglar that sentencing-phase admissions could be used as substantive evidence.
3. Whether a trial court must give a second or amended Curtis advisement before a defendant testifies during the habitual-criminal sentencing phase.

HOLDINGS

1. A defendant's admissions of prior felony convictions made while testifying during the habitual-criminal sentencing phase may be considered as substantive evidence of the existence of those convictions, although the admissions are not conclusive proof.
2. The trial court did not err by advising Ziglar that admissions of prior felony convictions during the habitual-criminal sentencing phase could be used as substantive evidence.
3. A trial court is not required to give a second or amended Curtis advisement before a defendant testifies during the habitual-criminal sentencing phase.

KEY QUOTATIONS

“Because prior felony evidence is relevant to habitual criminal proceedings, we hold that when a defendant testifies during the sentencing phase, the judge may consider admissions elicited at that time as substantive evidence.” (45 P.3d at 1270)

“Hence, evidence of prior felonies, including those elicited by a defendant on the witness stand, are admissible, substantive evidence during habitual criminal proceedings.” (45 P.3d at 1271)

“Hence, we find no justification for imposing a requirement upon trial courts to give an amended advisement concerning the right to testify during the habitual phase.” (45 P.3d at 1272)

FACTUAL BACKGROUND

Ziglar was tried for stabbing his wife and was convicted of second-degree assault and a crime-of-violence count. Because the prosecution also charged him as a habitual criminal, the jury was discharged and the court conducted a separate habitual-criminal proceeding concerning his prior felony convictions. Although Ziglar did not testify, the trial court gave him a second Curtis advisement stating that admissions of prior convictions during the sentencing phase could be considered substantively as evidence of habitual-criminal status as well as for credibility.

PROCEDURAL HISTORY

Ziglar was convicted by a jury of second-degree assault and one count of crime of violence. In a separate habitual-criminal proceeding, the trial court found beyond a reasonable doubt that he had sufficient prior felony convictions and imposed the mandatory thirty-two-year sentence. The Colorado Court of Appeals remanded, concluding that the trial court incorrectly advised Ziglar that admissions of prior convictions during the

sentencing phase could be used substantively and for impeachment. The Supreme Court of Colorado reversed and remanded for reinstatement of the habitual-criminal determination.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment of the Colorado Court of Appeals and return the case for reinstatement of the trial court's ruling and Ziglar's habitual-criminal status.

CASES CITED

- People v. Curtis, 681 P.2d 504 (Colo. 1984)
- Rock v. Arkansas, 483 U.S. 44, 50-51 (1987)
- People v. Deskins, 927 P.2d 368, 370 (Colo. 1996)
- People v. Blehm, 983 P.2d 779, 792-93 (Colo. 1999)
- Trackman v. People, 22 Colo. 83, 43 P. 662 (1896)
- People v. Neal, 181 Colo. 341, 509 P.2d 598 (1973)
- State v. Hartsough, 790 P.2d 836 (Colo. 1990)
- People v. Chavez, 621 P.2d 1362, 1366-67 (Colo. 1981)
- People v. Lefebvre, 981 P.2d 650, 654 (Colo. App. 1998)
- People v. Gray, 920 P.2d 787, 791-93 (Colo. 1996)
- People v. Rivera, 964 P.2d 561, 563-64 (Colo. App. 1998)
- People v. Ziglar, No. 98CA2214, slip op. at 13 (Colo. App. Dec. 14, 2000)