

SUPREME COURT OF COLORADO

People v. Lente

2017 CO 74 (2017) · No. 15SA331 · Decided June 19, 2017

SUMMARY

The Colorado Supreme Court held that unlicensed extraction of hash oil from marijuana using butane constitutes manufacturing marijuana, not protected personal-use processing under Amendment 64 to the Colorado Constitution. The court rejected the defendant's as-applied constitutional, overbreadth, and vagueness challenges to section 18-18-406(2)(a)(I), C.R.S. The court reversed the district court's dismissal of the charge and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Hood
JURISDICTION	Colorado
DECIDED	June 19, 2017
DOCKET	15SA331
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The People brought an interlocutory appeal directly to the Colorado Supreme Court from the district court's dismissal of a marijuana processing or manufacturing charge on the ground that Amendment 64 rendered the statute unconstitutional as applied.
STANDARD OF REVIEW	Constitutionality of statutes is reviewed de novo. Statutes are presumed constitutional, and a challenger bears the burden of proving unconstitutionality. A statute challenged as directly conflicting with the Colorado Constitution must be upheld absent a clear and unmistakable conflict.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado decided en banc.
PARTIES	The People of the State of Colorado v. Austin Joseph Lente

TOPICS

statutory interpretation

constitutional law

due process

appellate procedure

criminal procedure

PRACTICE AREAS

constitutional law

criminal law

marijuana law

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether extracting hash oil from marijuana using butane constitutes protected personal-use processing of marijuana plants under Amendment 64 to the Colorado Constitution or constitutes unlicensed manufacturing.
2. Whether section 18-18-406(2)(a)(I), C.R.S. (2016), is unconstitutional as applied to Lente because it conflicts with Amendment 64.
3. Whether the statute is unconstitutionally overbroad or vague as applied to Lente.

HOLDINGS

1. Under Amendment 64, extracting hash oil from marijuana is manufacturing marijuana, not processing marijuana plants, and unlicensed hash-oil extraction is not a protected personal use.
2. Section 18-18-406(2)(a)(I) is not unconstitutional as applied to Lente because Amendment 64 does not protect his unlicensed hash-oil extraction.
3. Lente failed to establish that section 18-18-406(2)(a)(I) is unconstitutionally overbroad or vague as applied to his conduct.

KEY QUOTATIONS

“We hold that, under Amendment 64, extracting hash oil from marijuana is manufacturing marijuana—not processing marijuana plants—and therefore does not fall within Amendment 64’s protected personal uses of marijuana.” (¶ 3)

“We hold that Amendment 64 does not protect unlicensed hash-oil extraction.” (¶ 31)

FACTUAL BACKGROUND

Lente used butane to extract hash oil from marijuana in his home. The butane escaped and exploded, causing a fire in his laundry room. He was charged with processing or manufacturing marijuana or marijuana concentrate, along with arson, criminal mischief, and other offenses. Lente was unlicensed and argued that Amendment 64 protected his conduct as personal processing of marijuana plants.

PROCEDURAL HISTORY

Lente was charged under section 18-18-406(2)(a)(I), C.R.S. (2016), after using butane to extract hash oil from marijuana. The El Paso County District Court dismissed that charge, concluding that Amendment 64 decriminalized processing marijuana and made the statute unconstitutional as applied to Lente. The People appealed directly under section 16-12-102(1), C.R.S. (2016), and C.A.R. 4(b)(3).

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the district court for further proceedings on the charge.

CASES CITED

- Justus v. State, 2014 CO 75, 336 P.3d 202
- E-470 Public Highway Authority v. Revenig, 91 P.3d 1038 (Colo. 2004)
- City of Greenwood Village v. Petitioners for the Proposed City of Centennial, 3 P.3d 427 (Colo. 2000)
- Colo. Ethics Watch v. Senate Majority Fund, LLC, 2012 CO 12, 269 P.3d 1248
- Davidson v. Sandstrom, 83 P.3d 648 (Colo. 2004)
- Zaner v. City of Brighton, 917 P.2d 280 (Colo. 1996)
- Spahmer v. Gullette, 113 P.3d 158 (Colo. 2005)
- People v. Graves, 2016 CO 15, 368 P.3d 317
- Buckley v. Valeo, 424 U.S. 1, 44 n.52 (1976)
- People v. Summers, 208 P.3d 251 (Colo. 2009)
- United States v. Santos, 553 U.S. 507 (2008)