

WASHINGTON SUPREME COURT

State v. Conte

159 Wash. 2d 797 (2007) · Decided March 15, 2007

SUMMARY

The Washington Supreme Court considered whether the civil enforcement provisions of Washington’s Public Disclosure Act, chapter 42.17 RCW, precluded criminal prosecution under RCW 40.16.030 for knowingly filing or causing the filing of false campaign disclosure reports. The court held that the statutes could be harmonized, that the Public Disclosure Act expressly preserved other remedies, and that it did not preclude prosecution under the criminal statute. The court reversed the trial court’s dismissal, reinstated the charges, and remanded for further proceedings.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	Madsen, J.; Alexander, C.J.; Bridge, J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.
JURISDICTION	Washington
DECIDED	March 15, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed a pretrial dismissal of criminal charges entered on a Knapstad motion. The Washington Supreme Court accepted certification from the Court of Appeals and reviewed whether chapter 42.17 RCW barred prosecution under RCW 40.16.030 and whether dismissal was alternatively required on due process grounds.
STANDARD OF REVIEW	De novo review applies to a trial court’s pretrial dismissal of criminal charges pursuant to a Knapstad motion and to questions of statutory construction.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential and binding in Washington courts.
PARTIES	State of Washington v. John Conte, Frank Colacurcio, Jr., Frank Colacurcio, Sr., Marsha Furfaro

TOPICS

- statutory interpretation
- criminal procedure
- legislative intent
- election law

PRACTICE AREAS

criminal law criminal procedure election law statutory interpretation
public disclosure and campaign finance

QUESTIONS PRESENTED

1. Whether chapter 42.17 RCW, the Public Disclosure Act, precludes prosecution under RCW 40.16.030 for knowingly filing or causing the filing of false campaign-finance instruments.
2. Whether the general-specific rule or implied-repeal principles require the State to proceed exclusively under the Public Disclosure Act's civil remedies.
3. Whether dismissal was required because the defendants lacked fair notice that the alleged conduct could be prosecuted under RCW 40.16.030.

HOLDINGS

1. Chapter 42.17 RCW does not preclude prosecution under RCW 40.16.030 for conduct that falls within both statutes.
2. Absent a very clear legislative indication that a civil statute precludes criminal prosecution, the general-specific rule does not foreclose prosecution under an existing criminal statute.
3. The alternative due process ground did not support dismissal because the defendants failed to argue that RCW 40.16.030 itself lacked fair notice or standards against arbitrary enforcement.

KEY QUOTATIONS

“Absent a very clear indication that the legislature intended that a civil statute preclude prosecution under a criminal statute, we will not apply the “general-specific” rule to foreclose the exercise of prosecutorial discretion or to negate the legislature’s determination that the conduct described by the criminal statute is subject to prosecution as a crime.” (at 814-815)

“We hold that chapter 42.17 RCW is not a specific statute that precludes prosecution under RCW 40.16.030 for conduct that is subject to the penalty provisions of both statutes.” (at 817)

FACTUAL BACKGROUND

The defendants allegedly arranged for campaign contributions to three Seattle City Council members to be reimbursed in cash, concealing the true sources of the contributions. The candidates' committees allegedly filed false campaign disclosure reports during their 2003 reelection campaigns. The alleged contributions were connected to individuals seeking a favorable zoning decision involving Rick's adult entertainment establishment, and investigators identified fourteen reimbursed contributors.

PROCEDURAL HISTORY

The State charged the defendants with conspiracy and with knowingly procuring, offering, or causing false instruments to be filed in connection with campaign-finance reports. After arraignment and pleas of not guilty, the defendants moved to dismiss, arguing that the Public Disclosure Act's civil enforcement provisions

preempted RCW 40.16.030 and that prosecution violated due process. The trial court granted dismissal; the State appealed, and the Washington Supreme Court accepted the Court of Appeals' certification.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the trial court's dismissal, reinstate the charges, and remand for further proceedings consistent with the opinion.

CASES CITED

- State v. Freigang, 115 Wn. App. 496, 501, 61 P.3d 343 (2002)
- In re Custody of Shields, 157 Wn.2d 126, 140, 136 P.3d 117 (2006)
- Wark v. Wash. Nat'l Guard, 87 Wn.2d 864, 867, 557 P.2d 844 (1976)
- In re Estate of Kerr, 134 Wn.2d 328, 343, 949 P.2d 810 (1998)
- State v. Presba, 131 Wn. App. 47, 52, 126 P.3d 1280 (2005)
- Port Townsend Sch. Dist. No. 50 v. Brouillet, 21 Wn. App. 646, 655-56, 587 P.2d 555 (1978)
- Senate Republican Campaign Comm. v. Pub. Disclosure Comm'n, 133 Wn.2d 229, 233, 243, 943 P.2d 1358 (1997)
- Nelson v. McClatchy Newspapers, Inc., 131 Wn.2d 523, 532-33, 936 P.2d 1123 (1997)
- State v. (1972) Dan J. Evans Campaign Comm., 86 Wn.2d 503, 507-08, 546 P.2d 75 (1976)
- Fritz v. Gorton, 83 Wn.2d 275, 284, 517 P.2d 911 (1974)
- State ex rel. Evergreen Freedom Found. v. Wash. Educ. Ass'n, 140 Wn.2d 615, 637, 999 P.2d 602 (2000)
- McGowan v. State, 148 Wn.2d 278, 288, 60 P.3d 67 (2002)
- Wash. State Republican Party v. Pub. Disclosure Comm'n, 141 Wn.2d 245, 280, 4 P.3d 808 (2000)
- City of Spokane v. Taxpayers of Spokane, 111 Wn.2d 91, 97, 758 P.2d 480 (1988)
- Martin v. Triol, 121 Wn.2d 135, 148, 847 P.2d 471 (1993)
- Bennett v. Hardy, 113 Wn.2d 912, 926, 784 P.2d 1258 (1990)
- United States v. Hansen, 772 F.2d 940, 946 (D.C. Cir. 1985)
- In re Det. of C.W., 147 Wn.2d 259, 282, 53 P.3d 979 (2002)
- Winchester v. Stein, 135 Wn.2d 835, 849, 959 P.2d 1077 (1998)
- City of Tacoma v. State, 117 Wn.2d 348, 351, 816 P.2d 7 (1991)
- Crisman v. Pierce County Fire Protection District No. 21, 115 Wn. App. 16, 60 P.3d 652 (2002)
- State v. Hampton, 143 Wn.2d 789, 793-94, 24 P.3d 1035 (2001)
- State v. Price, 94 Wn.2d 810, 819, 620 P.2d 994 (1980)
- Leeper v. Dep't of Labor & Indus., 123 Wn.2d 803, 816, 872 P.2d 507 (1994)
- Spokane County Health Dist. v. Brockett, 120 Wn.2d 140, 839 P.2d 324 (1992)

- State v. Stark, 66 Wn. App. 423, 431-32, 832 P.2d 109 (1992)
- United States v. Ursery, 518 U.S. 267, 116 S. Ct. 2135, 135 L. Ed. 2d 549 (1996)
- State v. Catlett, 133 Wn.2d 355, 945 P.2d 700 (1997)
- Amalgamated Transit Union Legislative Council v. State, 145 Wn.2d 544, 552, 40 P.3d 656 (2002)
- Local No. 497, Int'l Bhd. of Elec. Workers v. Pub. Util. Dist. No. 2 of Grant County, 103 Wn.2d 786, 788-89, 698 P.2d 1056 (1985)
- State v. Sullivan, 143 Wn.2d 162, 180 n.73, 19 P.3d 1012 (2001)
- State v. Harner, 153 Wn.2d 228, 237, 103 P.3d 738 (2004)
- State v. Riles, 135 Wn.2d 326, 348, 957 P.2d 655 (1998)

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