SUPREME COURT OF IOWA

State of Iowa v. Kevin Demale Johnson

Johnson · No. No. 07-0142 · Decided July 10, 2009

SUMMARY

The Iowa Supreme Court reviewed Kevin Demale Johnson’s convictions for failure to register as a sex offender and failure to appear at trial. The court held that Johnson waived the Interstate Agreement on Detainers’ 180-day trial requirement through agreed continuances, and it upheld the convictions based on sufficient evidence. The court also addressed the State’s challenge to the handling of Johnson’s habitual-offender status and affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Hecht, Justice
JURISDICTION	Iowa
DECIDED	July 10, 2009
DOCKET	No. 07-0142
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Johnson appealed convictions after a bench trial for failure to register as a sex offender, second offense, and failure to appear at trial. He challenged denial of his motions to dismiss under the Interstate Agreement on Detainers and the sufficiency of the evidence. The State cross-appealed the district court's failure to bifurcate the habitual-offender determination from the guilt phase.
STANDARD OF REVIEW	The court reviewed the ruling on the motions to dismiss, the sufficiency of the evidence, and the interpretation of the governing statute for correction of errors at law. Sufficiency of the evidence was assessed under the substantial-evidence standard, viewing the evidence in the light most favorable to the State.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential
PARTIES	Kevin Demale Johnson v. State of Iowa

TOPICS

speedy trial | criminal procedure | statutory interpretation | appellate procedure | sentencing

PRACTICE AREAS

criminal law | criminal procedure | appellate procedure | sentencing

QUESTIONS PRESENTED

1. Whether Johnson's counsel's agreement to trial continuances beyond the Interstate Agreement on Detainers' 180-day period waived Johnson's right to dismissal under the agreement.
2. Whether substantial evidence supported Johnson's conviction for failure to register as a sex offender, second offense.
3. Whether substantial evidence supported Johnson's conviction for willfully failing to appear at trial.
4. Whether Iowa Rule of Criminal Procedure 2.19(9) requires bifurcation of the habitual-offender determination from the guilt phase in a bench trial.

HOLDINGS

1. A defendant's counsel may waive the Interstate Agreement on Detainers' 180-day trial requirement by agreeing to a trial date beyond that period. Johnson's counsel's agreements to the continuances therefore waived the IAD objection, and dismissal was not required.
2. Substantial evidence supported Johnson's conviction for failure to register as a sex offender, second offense, because he abandoned his registered residence and failed to register a new address or as transient within five days.
3. Substantial evidence supported Johnson's conviction for willfully failing to appear at trial.
4. Absent an agreement by the parties to proceed otherwise, Iowa Rule of Criminal Procedure 2.19(9) requires the habitual-offender determination to be bifurcated from the guilt phase in both bench trials and jury trials.

KEY QUOTATIONS

> *"If a defendant is not tried within 180 days after making a request of the state lodging a detainer for a timely final disposition of an information, the district court must dismiss the charges with prejudice, and the detainer shall cease being effective."* (13)

> *"We conclude that in the absence of an agreement of the parties to proceed otherwise, the bifurcation procedures explained in Iowa Rule of Criminal Procedure 2.19(9) and in Kukowski apply in bench trials and jury trials."* (20)

> *"AFFIRMED IN PART, REVERSED IN PART, AND REMANDED."* (20)

FACTUAL BACKGROUND

Johnson was required to register as a sex offender whenever he established a new residence. After being evicted from his Sioux City apartment in December 2005, he removed his possessions and left Iowa for Arizona without

registering a new address or notifying the sheriff as required by Iowa law. He also failed to appear for a scheduled pretrial conference and trial despite having been informed of those dates and the obligations of his bond agreement. While imprisoned in Arizona, he invoked the Interstate Agreement on Detainers, and the Iowa charges were ultimately tried after agreed continuances extended the trial beyond the IAD's 180-day period.

PROCEDURAL HISTORY

Johnson was charged in the Woodbury County District Court, convicted of failure to register as a sex offender and failure to appear at trial, and acquitted of failure to appear at the pretrial conference. The district court denied Johnson's motions to dismiss, concluded that his counsel's agreement to continuances waived the Interstate Agreement on Detainers time limit, and rejected the State's request for a separate habitual-offender proceeding. The Supreme Court of Iowa affirmed the convictions, vacated the sentence, and remanded for a bifurcated determination of habitual-offender status.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the sentence and remand for further proceedings consistent with the opinion, including a bifurcated determination of Johnson's habitual-offender status under Iowa Rule of Criminal Procedure 2.19(9). The convictions remain affirmed.

CASES CITED

- State v. Widmer-Baum, 653 N.W.2d 351, 354-59 (Iowa 2002)
- United States v. Mauro, 436 U.S. 340, 349-52, 359, 98 S. Ct. 1834, 1842-43, 1846, 56 L. Ed. 2d 329, 340-41, 346 (1978)
- State v. Wood, 241 N.W.2d 8, 12-13 (Iowa 1976)
- Alabama v. Bozeman, 533 U.S. 146, 148, 121 S. Ct. 2079, 2082, 150 L. Ed. 2d 188, 192 (2001)
- State v. Bass, 320 N.W.2d 824, 827 (Iowa 1982)
- New York v. Hill, 528 U.S. 110, 112-16, 120 S. Ct. 659, 663-65, 145 L. Ed. 2d 560, 565-68 (2000)
- State v. Jorgensen, 758 N.W.2d 830, 834 (Iowa 2008)
- State v. Green, 680 N.W.2d 370, 372 (Iowa 2004)
- State v. Osborn, 368 N.W.2d 68, 70 (Iowa 1985)
- State v. Tippett, 624 N.W.2d 176, 177 (Iowa 2001)
- United States v. Reed, 354 F. Supp. 18, 20 (W.D. Mo. 1973)
- State v. Williams, 695 N.W.2d 23, 27 (Iowa 2005)
- State v. Kukowski, 704 N.W.2d 687, 691 (Iowa 2005)
- State v. Davis, 258 Iowa 1192, 1195, 140 N.W.2d 925, 926 (1966)

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