

SUPREME COURT OF NEBRASKA

State of Nebraska v. Scott Schneider, 263 Neb. 318

640 N.W.2d 8 (2002) · No. No. S-01-270 · Decided March 1, 2002

SUMMARY

The Supreme Court of Nebraska held that sex offender registration under Nebraska's Sex Offender Registration Act is a collateral consequence of a no contest plea. Because the trial court was not required to advise the defendant of that consequence, the pleas were constitutionally valid and the denial of the motion to withdraw them was not an abuse of discretion. The court also affirmed the consecutive one-year sentences as within statutory limits.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Connolly, J.; Hendry, C.J.; Wright, J.; Gerrard, J.; Stephan, J.; McCormack, J.; Miller-Lerman, J.
JURISDICTION	Nebraska
DECIDED	March 1, 2002
DOCKET	No. S-01-270
DISPOSITION	affirmed
PROCEDURAL POSTURE	Schneider appealed his convictions and consecutive one-year sentences for two counts of attempted sexual contact with a child after the district court denied his presentence motion to withdraw his no-contest pleas.
STANDARD OF REVIEW	A presentence motion to withdraw a guilty or no-contest plea is reviewed for abuse of discretion. Sentences within statutory limits are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Scott Schneider v. State of Nebraska

TOPICS

- plea bargaining
- criminal procedure
- due process
- sentencing
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the failure to advise Schneider before accepting his no-contest pleas that he would be required to register as a sex offender rendered the pleas constitutionally involuntary or unintelligent.
2. Whether Schneider established a fair and just reason to withdraw his pleas before sentencing.
3. Whether the consecutive one-year sentences were excessive or an abuse of discretion.

HOLDINGS

1. A trial court is not constitutionally required to advise a defendant of the collateral consequence of sex-offender registration under Nebraska's Sex Offender Registration Act before accepting a guilty or no-contest plea. Failure to provide that advice does not render the plea involuntary or unintelligent.
2. The district court did not abuse its discretion in denying Schneider's motion to withdraw his no-contest pleas because the failure to advise him of sex-offender-registration duties did not invalidate the pleas, and he did not establish a sufficient basis for withdrawal under Nebraska law.
3. The district court did not abuse its discretion by imposing consecutive one-year sentences because the sentences were within the statutory limits and the record supported the sentencing decision.

KEY QUOTATIONS

"We conclude that the district court was not required to inform Schneider of the collateral consequence of the duties imposed under the Act before accepting his pleas of no contest and that his pleas were not rendered involuntary or unintelligent because he was not aware of this requirement." (13)

"We conclude that the district court did not abuse its discretion in denying Schneider's motion to withdraw his pleas or in sentencing him. His convictions and sentences are affirmed." (15)

FACTUAL BACKGROUND

Schneider agreed to plead no contest to two amended Class I misdemeanor counts of attempted sexual contact with a child in exchange for reduction of the original felony charges. During the plea colloquy, the court advised him of the charges, possible fines and imprisonment, consecutive sentencing, and the constitutional rights waived by the pleas, but did not advise him of the statutory sex-offender-registration requirement. Before sentencing, Schneider moved to withdraw his pleas, asserting that the omission rendered them involuntary and that he had believed registration would not apply after the felony-to-misdemeanor reduction. The court denied the motion and imposed consecutive one-year terms, which were within the statutory limits.

PROCEDURAL HISTORY

Schneider was initially charged with two felony counts of sexual contact with a child. Pursuant to a plea agreement, the charges were amended to two Class I misdemeanors, and Schneider entered no-contest pleas. The district court accepted the pleas, later denied Schneider's motion to withdraw them based on the court's failure to

advise him of sex-offender-registration duties, and imposed consecutive one-year sentences. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Roeder, 262 Neb. 951, 636 N.W.2d 870 (2001)
- Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L. Ed. 2d 274 (1969)
- State v. Tweedy, 209 Neb. 649, 309 N.W.2d 94 (1981)
- State v. Silvers, 255 Neb. 702, 587 N.W.2d 325 (1998)
- State v. Burkhardt, 258 Neb. 1050, 607 N.W.2d 512 (2000)
- Kennedy v. Mendoza-Martinez, 372 U.S. 144, 83 S. Ct. 554, 9 L. Ed. 2d 644 (1963)
- Kansas v. Hendricks, 521 U.S. 346, 117 S. Ct. 2072, 138 L. Ed. 2d 501 (1997)
- State v. Howell, 254 Neb. 247, 575 N.W.2d 861 (1998)
- State v. Torres, 254 Neb. 91, 574 N.W.2d 153 (1998)
- Brady v. United States, 397 U.S. 742, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970)
- United States v. Amador-Leal, 276 F.3d 511 (9th Cir. 2002)
- State v. Bollig, 232 Wis. 2d 561, 605 N.W.2d 199 (2000)
- State v. Spiegel, 239 Neb. 233, 474 N.W.2d 873 (1991)
- State v. Irish, 223 Neb. 814, 394 N.W.2d 879 (1986)
- In re Interest of Theodore W., 4 Neb. App. 428, 545 N.W.2d 119 (1996)
- State v. Van Ackeren, 234 Neb. 535, 451 N.W.2d 707 (1990)
- State v. Stastny, 223 Neb. 903, 395 N.W.2d 492 (1986)
- State v. War Bonnett, 229 Neb. 681, 428 N.W.2d 508 (1988)
- State v. Young, 112 Ariz. 361, 542 P.2d 20 (1975)
- People v. Montaine, 7 P.3d 1065 (Colo. App. 1999)
- Nelson v. State, 780 So. 2d 294 (Fla. App. 2001)
- State v. Timperley, 599 N.W.2d 866 (S.D. 1999)
- State v. Carlson, 260 Neb. 815, 619 N.W.2d 832 (2000)
- State v. Wetherell, 259 Neb. 341, 609 N.W.2d 672 (2000)
- State v. Minshall, 227 Neb. 210, 416 N.W.2d 585 (1987)