

SUPREME COURT OF OHIO

State v. Craig

116 Ohio St. 3d 135 · Decided October 31, 2007

SUMMARY

The Ohio Supreme Court held that the state may appeal as a matter of right under R.C. 2945.67(A) from a trial court’s dismissal of an indictment, regardless of whether the dismissal is with or without prejudice. The court reversed the court of appeals’ dismissal of the state’s appeal and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Connor, J.; Moyer, C.J.; Pfeifer, J.; Lundberg Stratton, J.; O'Donnell, J.; Lanzinger, J.; Cupp, J.
JURISDICTION	Ohio
DECIDED	October 31, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The state appealed from the Cuyahoga County Court of Appeals' sua sponte dismissal of the state's appeal from a trial-court dismissal of a criminal indictment. The Supreme Court of Ohio accepted the state's discretionary appeal.
STANDARD OF REVIEW	Statutory interpretation de novo; the Supreme Court reviewed whether the court of appeals properly dismissed the state's appeal for lack of jurisdiction.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio.
PARTIES	State of Ohio v. Norman A. Craig

TOPICS

- appellate jurisdiction
- appellate procedure
- criminal procedure
- statutory interpretation
- plain meaning rule

PRACTICE AREAS

- criminal procedure
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. Whether R.C. 2945.67(A) permits the state to appeal as a matter of right from a trial-court decision dismissing all or part of an indictment when the dismissal is without prejudice.
2. Whether the statute's appeal right applies when the trial court dismisses the case on its own motion rather than in response to a defendant's motion.

HOLDINGS

1. Under R.C. 2945.67(A), the state may appeal as a matter of right from a trial-court decision dismissing all or any part of an indictment, regardless of whether the dismissal is with or without prejudice.
2. R.C. 2945.67(A) applies when a judge dismisses the case on the judge's own motion; such a dismissal is equivalent to a decision granting a motion to dismiss under the statute.

KEY QUOTATIONS

“Pursuant to R.C. 2945.67(A), the state may appeal the dismissal of an indictment whether the dismissal is with or without prejudice.” (§ 16)

“Courts neither have the authority to ignore plain and unambiguous statutory language, Morgan v. Ohio Adult Parole Auth. (1994), 68 Ohio St.3d 344, 347, 626 N.E.2d 939, nor may they insert words into a statute that have not been placed there by the General Assembly.” (§ 14)

FACTUAL BACKGROUND

A Cuyahoga County grand jury indicted Norman A. Craig for rape of a child. During pretrial proceedings, the trial court ruled on the use of child-services records and made comments concerning the victim's credibility. After the prosecuting attorney failed to appear for trial, the trial court dismissed the case for want of prosecution.

PROCEDURAL HISTORY

Craig was indicted for rape of a child. After the prosecuting attorney failed to appear for trial, the trial court dismissed the case for want of prosecution. The court of appeals dismissed the state's appeal for lack of a final, appealable order, reasoning that a dismissal presumed to be without prejudice was not appealable. The Supreme Court of Ohio reversed and remanded for the court of appeals to consider the state's appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the court of appeals to proceed forthwith with its consideration of the state's appeal.

CASES CITED

- State v. Hayes, 25 Ohio St. 3d 173, 25 OBR 214, 495 N.E.2d 578 (1986)

- Morgan v. Ohio Adult Parole Auth., 68 Ohio St. 3d 344, 347, 626 N.E.2d 939 (1994)
- Cline v. Ohio Bur. of Motor Vehicles, 61 Ohio St. 3d 93, 97, 573 N.E.2d 77 (1991)
- In re S.J., 106 Ohio St. 3d 11, 2005-Ohio-3215, 829 N.E.2d 1207, ¶ 13

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