

SUPREME COURT OF CONNECTICUT

State of Connecticut v. Seth William Apt

SC 19266 (Conn. Nov. 10, 2015) · No. SC 19266 · Decided November 10, 2015

SUMMARY

The Connecticut Supreme Court held that erased arrest and court records may not be introduced to prove a sentence enhancement under General Statutes § 53a-40b. However, the erasure statute, General Statutes § 54-142a, does not categorically bar the state from pursuing the enhancement on remand using evidence other than the erased records. The court therefore reversed in part the judgment of the Appellate Court and declined to reach the defendant’s jury-trial claim.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Palmer, J.; Rogers, C. J.; Zarella, J.; Eveleigh, J.; McDonald, J.; Robinson, J.; Mullins, J.
JURISDICTION	Connecticut
DECIDED	November 10, 2015
DOCKET	SC 19266
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The state appealed by certified appeal from the Connecticut Appellate Court’s judgment vacating a two-year sentence enhancement imposed under General Statutes § 53a-40b. The certified issue was whether the erasure provisions of General Statutes § 54-142a barred the state from pursuing a new sentence-enhancement hearing after the records relating to the defendant’s prior arrests had been erased.
STANDARD OF REVIEW	Questions of statutory interpretation are reviewed de novo. The Supreme Court also reviewed the remedy following the improper admission of evidence.
PRECEDENTIAL VALUE	published
PARTIES	State of Connecticut v. Seth William Apt

TOPICS

- sentencing
- statutory interpretation
- evidence
- criminal procedure
- appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the erasure provisions of General Statutes §§ 54-142a and 54-142c categorically barred the state from pursuing a sentence enhancement under § 53a-40b after the records concerning the prior arrests and proceedings had been erased.
2. Whether the defendant was entitled to a jury determination and proof beyond a reasonable doubt concerning the factual basis for the § 53a-40b sentence enhancement.

HOLDINGS

1. The trial court improperly admitted the defendant's erased arrest and court records to prove the basis for the § 53a-40b enhancement.
2. The erasure provisions do not categorically preclude the state from pursuing a § 53a-40b sentence enhancement on remand, provided the state does not use the erased records and instead relies on otherwise admissible evidence.
3. The court declined to decide whether the defendant was entitled to a jury determination or proof beyond a reasonable doubt concerning the § 53a-40b enhancement because the admissible evidence to be presented on remand was not yet known.

KEY QUOTATIONS

“Although the state may not use the erased records to prove the basis for the sentence enhancement under § 53a-40b, the erasure provisions of § 54-142a do not prohibit the imposition of a sentence enhancement in such circumstances.” (at 2)

“We merely conclude that §§ 54-142a and 54-142c do not categorically preclude the state from seeking to establish the basis for the defendant’s sentence enhancement in the present case by use of evidence other than the erased records.” (at 18)

“The judgment of the Appellate Court is reversed insofar as it precluded the state from seeking a new hearing to establish the basis for the defendant’s sentence enhancement, and the case is remanded to that court with direction to remand the case to the trial court for a new hearing on the sentence enhancement and, thereafter, for resentencing; the judgment of the Appellate Court is affirmed in all other respects.” (at 22)

FACTUAL BACKGROUND

The defendant was arrested in three prior cases and released on bond after each arrest. One prior case was dismissed after successful completion of accelerated pretrial rehabilitation, and the other two were nolle; the records relating to all three proceedings were subsequently erased under General Statutes § 54-142a. The defendant later committed and was convicted of third-degree larceny. At sentencing, the trial court admitted the erased informations and an appearance-bond form and imposed a two-year enhancement under § 53a-40b based on the finding that the larceny was committed while the defendant was on pretrial release.

PROCEDURAL HISTORY

A jury found the defendant guilty of third-degree larceny. The trial court admitted erased records from prior arrest proceedings and imposed a two-year enhancement under § 53a-40b based on its finding that the larceny was committed while the defendant was on pretrial release. The Appellate Court held that admission of the erased records was improper and that the state could not pursue the enhancement on remand. The Connecticut Supreme Court reversed that latter determination, affirmed the judgment in all other respects, and remanded for a new enhancement hearing and resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Appellate Court with direction to remand to the trial court for a new hearing on the § 53a-40b sentence enhancement and thereafter for resentencing. The state may pursue the enhancement using evidence other than the erased records. The defendant must be sentenced anew regardless of whether the state proves the enhancement.

CASES CITED

- State v. Gray, 200 Conn. 523, 512 A.2d 217, cert. denied, 479 U.S. 940 (1986)
- State v. Moulton, 310 Conn. 337, 357, 78 A.3d 55 (2013)
- State v. Brown, 310 Conn. 693, 703, 80 A.3d 878 (2013)
- State v. Morowitz, 200 Conn. 440, 512 A.2d 175 (1986)
- State v. Fagan, 280 Conn. 69, 905 A.2d 1101, cert. denied, 549 U.S. 1269 (2007)
- State v. Kemah, 289 Conn. 411, 436-37, 957 A.2d 852 (2008)
- State v. Riley, 315 Conn. 637, 661-63, 110 A.3d 1205 (2015)
- State v. Cofield, 220 Conn. 38, 49-50, 595 A.2d 1349 (1991)
- Apprendi v. New Jersey, 530 U.S. 466, 490, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000)
- Blakely v. Washington, 542 U.S. 296, 301-04, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)
- State v. Miranda, 260 Conn. 93, 129-30, 794 A.2d 506, cert. denied, 537 U.S. 902 (2002)
- State v. Andrews, 253 Conn. 497, 502-03, 752 A.2d 49 (2000)
- Dougan v. Dougan, 301 Conn. 361, 372, 21 A.3d 791 (2011)
- DiLieto v. County Obstetrics & Gynecology Group, P.C., 297 Conn. 105, 148-55, 998 A.2d 730 (2010)

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