

SUPREME COURT OF NEBRASKA

State v. Brown

300 Neb. 57 (2018) · No. Nos. S-17-442 through S-17-444 · Decided May 25, 2018

SUMMARY

The Nebraska Supreme Court considered whether Darwin E. Brown's Missouri driving-while-intoxicated conviction qualified as a prior conviction for enhancing his Nebraska DUI sentences. The court held that the Missouri and Nebraska statutes required substantially the same elements and affirmed use of the Missouri conviction for enhancement. The court also held that Brown's consecutive sentences were within statutory limits and were not an abuse of discretion.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Miller-Lerman, J.; Heavican, C.J.; Cassel, J.; Stacy, J.; Funke, J.; Harder, District Judge; Noakes, District Judge
JURISDICTION	Nebraska
DECIDED	May 25, 2018
DOCKET	Nos. S-17-442 through S-17-444
DISPOSITION	affirmed
PROCEDURAL POSTURE	Brown appealed three consolidated convictions and sentences for driving under the influence from the District Court for Lancaster County, challenging the use of a Missouri DWI conviction to enhance his sentences and asserting that his sentences were excessive.
STANDARD OF REVIEW	The meaning of a statute is reviewed de novo, with the appellate court reaching an independent conclusion. A sentence within statutory limits is reviewed for abuse of discretion; abuse occurs when the sentencing court's reasons or rulings are clearly untenable and unfairly deprive the litigant of a substantial right and a just result.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Darwin E. Brown v. State of Nebraska

TOPICS

- statutory interpretation
- sentencing
- criminal procedure
- standard of review
- appellate procedure

PRACTICE AREAS

criminal law

DUI sentencing

statutory interpretation

appellate review

QUESTIONS PRESENTED

1. Whether Brown's 2003 Missouri DWI conviction qualified as a prior conviction under Nebraska's DUI enhancement statute.
2. Whether the district court abused its discretion by imposing consecutive prison sentences, including maximum terms, and declining to impose probation.

HOLDINGS

1. A conviction under Missouri's 2003 DWI statutes qualifies as a prior conviction under Neb. Rev. Stat. § 60-6,197.02(1)(a)(i)(C) because the Missouri offense's statutory elements would have constituted a violation of Nebraska's DUI statute, Neb. Rev. Stat. § 60-6,196.
2. The district court did not abuse its discretion by imposing consecutive prison sentences within the applicable statutory limits and declining to impose probation.

KEY QUOTATIONS

"If it is clear that the offense as statutorily defined in the other state would have been a violation of the relevant Nebraska statute, no further inquiry is required." (64)

"The analytical lesson from Mitchell directs us to focus initially on a comparison of statutes and only if the outcome is unclear do we then expand the inquiry to case law interpretation of the statutes." (65)

"The appropriateness of a sentence is necessarily a subjective judgment and includes the sentencing judge's observation of the defendant's demeanor and attitude and all the facts and circumstances surrounding the defendant's life." (67)

FACTUAL BACKGROUND

Brown was convicted in three separate Nebraska cases of DUI arising from offenses committed on July 19, 2015, and January 16 and May 6, 2016. Each information alleged a breath-alcohol concentration of at least .15 and two prior convictions, including a 2013 Nebraska DUI-related conviction and a 2003 Missouri DWI conviction. Brown pleaded guilty, and the district court used the Missouri conviction to enhance each current offense to a Class IIIA felony. The court imposed consecutive terms of imprisonment and revoked Brown's driver's license for 15 years.

PROCEDURAL HISTORY

The State charged Brown in three cases with DUI and alleged that he had two prior convictions, one Nebraska conviction and one Missouri DWI conviction. Brown pleaded guilty pursuant to a plea agreement. After an enhancement hearing, the district court treated the Missouri conviction as a valid prior conviction, classified each current offense as a Class IIIA felony, imposed consecutive prison sentences, and revoked Brown's driver's license for 15 years. The Nebraska Supreme Court consolidated the appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Garcia, 281 Neb. 1, 792 N.W.2d 882 (2011)
- State v. Smith, 295 Neb. 957, 892 N.W.2d 52 (2017)
- State v. Chacon, 296 Neb. 203, 894 N.W.2d 238 (2017)
- State v. Mitchell, 285 Neb. 88, 825 N.W.2d 429 (2013)
- State v. Edwards, 280 S.W.2d 184, 189 (Mo. App. 2009)
- State v. Falcon, 260 Neb. 119, 615 N.W.2d 436 (2000)
- State v. Cerritos-Valdez, 295 Neb. 563, 889 N.W.2d 605 (2017)
- State v. Russell, 299 Neb. 483, 908 N.W.2d 669 (2018)