

SUPREME COURT OF ILLINOIS

People v. Thurow

203 Ill. 2d 352 (Ill. 2003) · No. No. 90911 · Decided February 6, 2003

SUMMARY

The Illinois Supreme Court held that the family-or-household-member sentencing enhancement for involuntary manslaughter was subject to the jury-trial and reasonable-doubt requirements of Apprendi v. New Jersey. Because the jury was not instructed on that enhancement, the court treated the error as subject to harmless-error review and concluded that the evidence establishing the victim's household membership was uncontested and overwhelming. The court affirmed in part and reversed in part the appellate court's judgment.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Chief Justice McMorrow; Justice Freeman; Justice Kilbride
JURISDICTION	Illinois
DECIDED	February 6, 2003
DOCKET	No. 90911
DISPOSITION	other
PROCEDURAL POSTURE	The State petitioned for leave to appeal from an appellate court judgment vacating defendant's enhanced sentence and remanding for resentencing within the five-year maximum for simple involuntary manslaughter.
STANDARD OF REVIEW	Constitutional and statutory issues were reviewed de novo. The court applied harmless-error review and required the State to establish beyond a reasonable doubt that a rational jury would have found the omitted enhancement element.
PRECEDENTIAL VALUE	published precedential opinion of the Illinois Supreme Court
PARTIES	The People of the State of Illinois v. Erin N. Thurow

TOPICS

- sentencing
- sixth amendment
- harmless error
- criminal procedure
- statutory interpretation

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

sentencing

appellate procedure

QUESTIONS PRESENTED

1. Whether the household-member factor that increased involuntary manslaughter from a Class 3 felony carrying a five-year maximum to a Class 2 felony carrying a fourteen-year maximum was an element required to be submitted to the jury and proved beyond a reasonable doubt under Apprendi.
2. Whether the failure to submit the household-member factor to the jury was subject to harmless-error review.
3. Whether section 9-3(f) of the Criminal Code of 1961 was facially unconstitutional because it did not expressly require notice of sentence-enhancing facts or proof beyond a reasonable doubt.
4. Whether defendant's eight-year enhanced sentence could be affirmed despite the Apprendi violation.

HOLDINGS

1. Because the household-member factor increased the prescribed maximum penalty from five to fourteen years, it constituted an element of the offense and had to be submitted to a jury and proved beyond a reasonable doubt.
2. The omission of the household-member factor from the jury instructions was subject to harmless-error review.
3. Section 9-3(f) was not facially unconstitutional and was not void ab initio.

KEY QUOTATIONS

*“Under the rule announced in Apprendi, because this enhancement factor “increase[s] the prescribed range of penalties to which a criminal defendant is exposed,” it is an element of the offense and must be submitted to a jury and proved beyond a reasonable doubt.” (*1024)*

*“Given the evidence in support of this element, it is clear beyond a reasonable doubt that a properly instructed, rational jury would have found defendant guilty of involuntary manslaughter against a household member.” (*1029)*

FACTUAL BACKGROUND

Thurrow and Michelle Mostowski shared an apartment and jointly cared for their children. On February 11, 1999, Thurrow covered Mostowski's infant son's mouth while attempting to quiet him; the child later died of suffocation. The jury found Thurrow guilty of simple involuntary manslaughter, but was not instructed to determine whether the victim was a family or household member.

PROCEDURAL HISTORY

Thurrow was convicted of involuntary manslaughter in the circuit court of Will County and sentenced to eight years based on a household-member enhancement and, alternatively, the victim's tender age. The Illinois Appellate Court held that the sentence violated Apprendi, vacated the sentence, and remanded for resentencing.

The Illinois Supreme Court affirmed in part and reversed in part, holding the Apprendi error harmless and reinstating the eight-year sentence.

DISPOSITION

other

REMAND INSTRUCTIONS

The appellate court's vacatur and remand for a new sentencing hearing were reversed. The eight-year sentence imposed by the circuit court was affirmed; no new sentencing hearing was required.

CASES CITED

- Apprendi v. New Jersey, 530 U.S. 466 (2000)
- Jones v. United States, 526 U.S. 227 (1999)
- United States v. Cotton, 535 U.S. 625 (2002)
- United States v. Olano, 507 U.S. 725 (1993)
- Chapman v. California, 386 U.S. 18 (1967)
- Neder v. United States, 527 U.S. 1 (1999)
- United States v. Nealy, 232 F.3d 825 (11th Cir. 2000)
- United States v. Green, 246 F.3d 433 (5th Cir. 2001)
- United States v. Nance, 236 F.3d 820 (7th Cir. 2000)
- United States v. Adkins, 274 F.3d 444 (7th Cir. 2001)
- People v. Zeisler, 125 Ill. 2d 42, 531 N.E.2d 24 (1988)
- People v. Ford, 198 Ill. 2d 68, 761 N.E.2d 735 (2001)
- United States v. Salerno, 481 U.S. 739 (1987)
- Arizona v. Fulminante, 499 U.S. 279 (1991)
- Agostini v. Felton, 521 U.S. 203 (1997)
- United States v. Gaudin, 515 U.S. 506 (1995)
- In re Winship, 397 U.S. 358 (1970)
- Rose v. Clark, 478 U.S. 570 (1986)
- Ring v. Arizona, 536 U.S. 584 (2002)