

SUPREME COURT OF WASHINGTON

In re the Detention of Danforth, 173 Wash. 2d 59

264 P.3d 783 (2011) · No. No. 84152-7 · Decided November 10, 2011

SUMMARY

The Washington Supreme Court affirmed the denial of Robert Danforth's motion for summary judgment in a sexually violent predator civil commitment proceeding. The court held that his explicit statements describing intended sexual offenses could constitute a "threat" and therefore a "recent overt act" under former RCW 71.09.020(10). It also held that the applicable civil commitment provisions were not unconstitutionally overbroad or vague.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	J.M. Johnson; Barbara A. Madsen; Susan Owens; Charles W. Johnson; Tom Chambers; Richard P. Wiggins; Gerry L. Alexander; Mary E. Fairhurst; Debra L. Stephens
JURISDICTION	Washington
DECIDED	November 10, 2011
DOCKET	No. 84152-7
DISPOSITION	affirmed
PROCEDURAL POSTURE	Danforth sought discretionary review of the denial of his motion for summary judgment in a sexually violent predator civil-commitment proceeding. The Washington Supreme Court affirmed the Court of Appeals and the trial court's denial of summary judgment.
STANDARD OF REVIEW	Statutory interpretation and summary judgment rulings are reviewed de novo. On summary judgment, the facts and reasonable inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published en banc Washington Supreme Court opinion; binding precedent in Washington.
PARTIES	Robert Danforth v. State of Washington

TOPICS

statutory interpretation

summary judgment

due process

overbreadth doctrine

void for vagueness

PRACTICE AREAS

civil commitment

constitutional law

statutory interpretation

civil procedure

QUESTIONS PRESENTED

1. Whether Danforth's statements, viewed in the context of his conduct, criminal history, and mental condition, could constitute a threat and therefore a recent overt act under former RCW 71.09.020(10).
2. Whether the trial court properly denied summary judgment because a reasonable jury could find that Danforth committed a recent overt act.
3. Whether former RCW 71.09.030(5), as defined by former RCW 71.09.020(10), was unconstitutionally overbroad under the First Amendment.
4. Whether the statutory definition of recent overt act was unconstitutionally vague as applied to Danforth.
5. Whether the statute satisfied due process by requiring proof of present dangerousness before involuntary civil commitment.

HOLDINGS

1. A threat under former RCW 71.09.020(10) means an expression of an intention to inflict loss or harm on another. A recent overt act may consist of either an act or a threat; the State need not prove both.
2. Summary judgment was properly denied because, viewing the evidence and reasonable inferences in the State's favor, a legally sufficient basis existed for a reasonable jury to find that Danforth expressed an intention to inflict loss or harm and committed a recent overt act.
3. Former RCW 71.09.030(5), as defined by former RCW 71.09.020(10), was not unconstitutionally overbroad because the civil commitment statute did not criminalize or regulate speech and did not implicate First Amendment concerns.
4. Former RCW 71.09.030(5), as defined by former RCW 71.09.020(10), was not unconstitutionally vague as applied to Danforth and provided ascertainable standards against arbitrary enforcement.

KEY QUOTATIONS

"We adopt this definition and hold that, by including the common and ordinary meaning of the word "threat" within the definition of "recent overt act," the legislature intended to civilly commit sexually violent offenders before harm to another victim occurs." (68)

"This does not mean that an offender must both act and make a threat to commit a "recent overt act." Rather, it means that an offender's threats must be evaluated in the context of the offender's conduct, history and mental condition." (69)

"More importantly, that there is arguably a difference in characterization means that this is exactly the type of question we submit to juries." (70)

"Former RCW 71.09.030(5) satisfies our due process requirement that the State show an offender is presently dangerous before he or she is involuntarily committed." (75)

FACTUAL BACKGROUND

Robert Danforth had a lengthy history of sexual offenses against boys and had been released from prison in 1996. In October 2006, he went to the King County Sheriff's Office, reported that he feared reoffending, described sexual desires and specific possible conduct involving boys, and asked to be committed. The State filed a sexually violent predator commitment petition based on those statements and an expert's assessment that they indicated a high risk of sexual reoffending.

PROCEDURAL HISTORY

The King County prosecuting attorney petitioned to civilly commit Danforth as a sexually violent predator. The trial court denied Danforth's motion for summary judgment, concluding that a reasonable jury could find a recent overt act based on his statements to law-enforcement and mental-health personnel. Danforth stipulated to commitment while preserving his right to appeal the summary-judgment ruling. The Court of Appeals affirmed, and the Washington Supreme Court granted discretionary review and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Detention of Danforth, 153 Wn. App. 833, 223 P.3d 1241 (2009)
- State v. McNallie, 120 Wn.2d 925, 933, 846 P.2d 1358 (1993)
- Department of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 9, 43 P.3d 4 (2002)
- State v. J.M., 144 Wn.2d 472, 480, 28 P.3d 720 (2001)
- State v. Armendariz, 160 Wn.2d 106, 110, 156 P.3d 201 (2007)
- Garrison v. Washington State Nursing Board, 87 Wn.2d 195, 196, 550 P.2d 7 (1976)
- Harris v. Ski Park Farms, Inc., 120 Wn.2d 727, 737, 844 P.2d 1006 (1993)
- Wilson v. Steinbach, 98 Wn.2d 434, 437, 656 P.2d 1030 (1982)
- Schmidt v. Coogan, 162 Wn.2d 488, 493, 173 P.3d 273 (2007) (per curiam)
- State v. Thorne, 129 Wn.2d 736, 769-70, 921 P.2d 514 (1996)
- State v. Reyes, 104 Wn.2d 35, 41, 700 P.2d 1155 (1985)
- United States v. Williams, 553 U.S. 285, 292, 128 S. Ct. 1830, 170 L. Ed. 2d 650 (2008)
- Wisconsin v. Mitchell, 508 U.S. 476, 113 S. Ct. 2194, 124 L. Ed. 2d 436 (1993)
- State v. Halstien, 122 Wn.2d 109, 124-25, 857 P.2d 270 (1993)
- State v. Schaler, 169 Wn.2d 274, 282, 236 P.3d 858 (2010)
- State v. Kilburn, 151 Wn.2d 36, 43, 84 P.3d 1215 (2004)
- State v. Williams, 144 Wn.2d 197, 208, 26 P.3d 890 (2001)
- City of Spokane v. Douglass, 115 Wn.2d 171, 178, 180-83, 795 P.2d 693 (1990)
- Maynard v. Cartwright, 486 U.S. 356, 361, 108 S. Ct. 1853, 100 L. Ed. 2d 372 (1988)

- Rose v. Locke, 423 U.S. 48, 49, 96 S. Ct. 243, 46 L. Ed. 2d 185 (1975)
- Boutilier v. Immigration & Naturalization Service, 387 U.S. 118, 123, 87 S. Ct. 1563, 18 L. Ed. 2d 661 (1967)
- Sproles v. Binford, 286 U.S. 374, 393, 52 S. Ct. 581, 76 L. Ed. 1167 (1932)
- City of Seattle v. Eze, 111 Wn.2d 22, 26, 759 P.2d 366 (1988)
- State v. Maciolek, 101 Wn.2d 259, 267, 676 P.2d 996 (1984)
- State v. Worrell, 111 Wn.2d 537, 544, 761 P.2d 56 (1988)
- American Dog Owners Association v. City of Yakima, 113 Wn.2d 213, 216, 777 P.2d 1046 (1989)
- In re Detention of Lewis, 163 Wn.2d 188, 193-94, 177 P.3d 708 (2008)
- In re Detention of Albrecht, 147 Wn.2d 1, 7-8, 51 P.3d 73 (2002)
- In re Personal Restraint of Young, 122 Wn.2d 1, 41-42, 857 P.2d 989 (1993)
- In re Detention of Harris, 98 Wn.2d 276, 284, 654 P.2d 109 (1982)
- Foucha v. Louisiana, 504 U.S. 71, 78, 80, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992)
- Addington v. Texas, 441 U.S. 418, 426, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979)
- Kansas v. Hendricks, 521 U.S. 346, 361, 117 S. Ct. 2072, 138 L. Ed. 2d 501 (1997)
- Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)
- Gitlow v. New York, 268 U.S. 652, 666, 45 S. Ct. 625, 69 L. Ed. 1138 (1925)
- Watts v. United States, 394 U.S. 705, 707, 89 S. Ct. 1399, 22 L. Ed. 2d 664 (1969)
- State v. Danforth, 56 Wn. App. 133, 782 P.2d 1091 (1989)