

SUPREME COURT OF ILLINOIS

People v. Carney

People v. Carney · No. 90549 · Decided June 21, 2001

SUMMARY

The Illinois Supreme Court reviewed whether section 5–8–4(a) of the Illinois Unified Code of Corrections, which may require consecutive sentences for certain offenses involving severe bodily injury, was unconstitutional under *Apprendi v. New Jersey*. The court held that *Apprendi* did not apply because consecutive sentences remain separate sentences for separate offenses and do not increase the sentence for any individual offense beyond its statutory maximum. The court reversed the appellate court and remanded for consideration of the defendant’s other unresolved issues.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Garman
JURISDICTION	Illinois
DECIDED	June 21, 2001
DOCKET	90549
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State petitioned for leave to appeal from an appellate court decision that affirmed Carney's convictions but vacated his consecutive sentences as unconstitutional under <i>Apprendi v. New Jersey</i> . The Illinois Supreme Court reversed the appellate court on the sentencing issue, affirmed the circuit court in part, and remanded for consideration of other issues raised but not decided below.
STANDARD OF REVIEW	Constitutional challenges to statutes are reviewed de novo. Statutes are presumed constitutional, and the party challenging constitutionality bears the burden of rebutting that presumption.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; binding precedent in Illinois.
PARTIES	The People of the State of Illinois v. Barnett Carney

TOPICS

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PRACTICE AREAS

Criminal law

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QUESTIONS PRESENTED

1. Whether section 5-8-4(a) of the Unified Code of Corrections violates the due process principles recognized in *Apprendi v. New Jersey* by permitting a judge, rather than a jury, to find severe bodily injury and require consecutive sentences.
2. Whether consecutive sentences imposed under section 5-8-4(a) must be treated as a single sentence or as increased punishment for purposes of *Apprendi*.
3. Whether the appellate court should consider Carney's other arguments that it had not addressed.

HOLDINGS

1. Consecutive sentences imposed under section 5-8-4(a) do not violate defendants' due process rights, and *Apprendi* does not apply to the judicial fact finding used to impose those sentences.
2. Consecutive sentences constitute distinct sentences for the separate offenses of conviction and may not be aggregated into a single sentence for purposes of applying *Apprendi*.
3. The cause must be remanded to the appellate court to consider the other issues Carney raised but that court did not address.

KEY QUOTATIONS

"In summary, we hold that consecutive sentences imposed under section 5–8–4(a) of the Code do not violate the due process rights of defendants and that the Supreme Court's Apprendi decision does not apply to such sentences." (Conclusion)

"It is not the increased punishment itself that triggers the constitutional protections of Apprendi; rather, the fact must be submitted to a jury and proved beyond a reasonable doubt only when the punishment exceeds the statutory maximum for the particular offense." (Analysis)

"Our jurisprudence, therefore, makes it clear that consecutive sentences do not constitute a single sentence and cannot be combined as though they were one sentence for one offense." (Analysis)

FACTUAL BACKGROUND

Carney and codefendant Sean Tucker were charged with murdering and robbing Richard Frazier during a dice game in Chicago. A masked participant held Frazier at gunpoint, struggled with him, and shot him; Frazier later died from complications of the wound. Evidence included eyewitness testimony, a mask found in Carney's bedroom, a handgun recovered from Tucker's home that matched the shell casing, and rebuttal testimony concerning Carney's post-arrest statement describing the robbery. The circuit court found that Carney inflicted severe bodily injury and imposed consecutive sentences under section 5-8-4(a).

PROCEDURAL HISTORY

Following a jury trial in the Circuit Court of Cook County, Carney was convicted of first degree murder and armed robbery and received consecutive sentences of 29 and 10 years. The appellate court affirmed the convictions but vacated the sentences and ordered concurrent sentences, concluding that section 5-8-4(a) of the Unified Code of Corrections violated Apprendi. The Illinois Supreme Court granted the State's petition for leave to appeal, reversed the appellate court on that issue, affirmed the circuit court in part, and remanded for consideration of Carney's unresolved appellate arguments.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the appellate court's decision concerning the consecutive sentences, affirm the circuit court as to that issue, and remand to the appellate court for consideration of Carney's other arguments that it had not addressed.

CASES CITED

- People v. Wagener, No. 88843 (May 24, 2001)
- Apprendi v. New Jersey, 530 U.S. 466, 147 L. Ed. 2d 435, 120 S. Ct. 2348 (2000)
- People v. Clifton, 321 Ill. App. 3d 707 (2000)
- People v. Harden, 318 Ill. App. 3d 425 (2000)
- People v. Mason, 318 Ill. App. 3d 314 (2000)
- People v. Waldrup, 317 Ill. App. 3d 288 (2000)
- People v. Primm, 319 Ill. App. 3d 411 (2000)
- People v. Lucas, 321 Ill. App. 3d 49 (2001)
- People v. Hayes, 319 Ill. App. 3d 810 (2001)
- People v. Maiden, 318 Ill. App. 3d 545 (2001)
- People v. Sutherland, 317 Ill. App. 3d 1117, 1131 (2000)
- Thomas v. Greer, 143 Ill. 2d 271, 278 (1991)
- People v. Malchow, 193 Ill. 2d 413, 418 (2000)
- People v. Maness, 191 Ill. 2d 478, 483 (2000)
- Illinois Crime Investigating Comm'n v. Buccieri, 36 Ill. 2d 556, 561 (1967)
- McMillan v. Pennsylvania, 477 U.S. 79, 87-88 (1986)
- People v. Elliott, 272 Ill. 592, 600 (1916)
- People v. Kilpatrick, 167 Ill. 2d 439, 441-47 (1995)
- People v. Goffman, 65 Ill. 2d 296, 302 (1976)
- People v. Muellner, 70 Ill. App. 3d 671, 673, 683 (1979)
- People v. Rivera, 212 Ill. App. 3d 519, 520-25 (1991)

- People v. Jones, 168 Ill. 2d 367, 370-72 (1995)
- Jones v. United States, 526 U.S. 227, 252-53 (1999) (Stevens, J., concurring)
- Buford v. United States, 532 U.S. ___, 149 L. Ed. 2d 197, 121 S. Ct. 1276 (2001)
- United States v. White, 240 F.3d 127 (2d Cir. 2001)

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