

SUPREME COURT OF WASHINGTON

State v. Montano

239 P.3d 360 (Wash. 2010) · No. No. 82855-5 · Decided September 16, 2010

SUMMARY

The Washington Supreme Court held that the State failed to establish a prima facie case of intimidating a public servant under RCW 9A.76.180 because Montano's threats and angry conduct provided no independent evidence that he intended to influence the officers' official actions. The court reversed the Court of Appeals and upheld dismissal of the intimidation charge under a Knapstad motion.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	C. Johnson, J.; Gerry L. Alexander; Richard B. Sanders; Tom Chambers; Susan Owens; Mary E. Fairhurst; J.M. Johnson; Barbara A. Madsen; Debra L. Stephens
JURISDICTION	Washington
DECIDED	September 16, 2010
DOCKET	No. 82855-5
DISPOSITION	reversed
PROCEDURAL POSTURE	Montano obtained a pretrial Knapstad dismissal of the charge of intimidating a public servant. The Court of Appeals reversed and remanded for trial. The Washington Supreme Court granted review and reversed the Court of Appeals.
STANDARD OF REVIEW	The Supreme Court reviews de novo a trial court's dismissal of a criminal charge under Knapstad. A Knapstad court determines as a matter of law whether the facts relied on by the State establish a prima facie case of guilt.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jose Juan Montano v. State of Washington

TOPICS

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

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the State presented sufficient evidence to survive a Knapstad motion to dismiss the charge of intimidating a public servant under RCW 9A.76.180.
2. Whether threats and angry or violent conduct, without additional evidence independently suggesting an intent to influence a public servant's official action, establish a prima facie case of intimidation.

HOLDINGS

1. To survive a Knapstad motion on a charge of intimidating a public servant, the State must provide some evidence of both a threat and an attempt or purpose to influence the public servant's official action. Threats themselves and generalized anger, without additional evidence suggesting an attempt to influence, are insufficient.
2. RCW 9A.76.180 does not require that the public servant be presently engaged in an official action when the threat is made; an attempted influence may concern future official action.

KEY QUOTATIONS

“In order to survive a motion to dismiss, the State must provide some evidence both that the defendant made a threat and that the threat was made with the purpose of influencing a public servant's official action.” (239 P.3d at 361)

“In the absence of some evidence suggesting an attempt to influence, the State has failed to make a prima facie showing that Montano attempted to influence either officer's official action.” (239 P.3d at 363)

“Though such behavior is certainly reprehensible, it does not rise to the level of intimidation.” (239 P.3d at 363)

FACTUAL BACKGROUND

Officer Darren Smith encountered Jose Juan Montano after seeing him shove his brother and stopped to investigate. Montano refused to identify himself, resisted the officers' attempts to restrain and arrest him, and was twice tased before being handcuffed. After being subdued, Montano threatened Smith, saying he knew where Smith lived or worked and would be waiting for him, and continued making threats and insults while being transported to jail.

PROCEDURAL HISTORY

The State charged Montano with intimidating a public servant, fourth degree assault, and resisting arrest. The trial court dismissed the intimidation charge under *State v. Knapstad* for insufficient evidence of the statutory elements, and the State dismissed the remaining charges without prejudice to avoid speedy-trial, double-jeopardy, and multiple-trial concerns. The Court of Appeals reversed the intimidation-charge dismissal, but the Supreme Court reversed the Court of Appeals and reinstated the trial court's dismissal.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The Supreme Court reversed the Court of Appeals' decision. The intimidation charge remained dismissed under the trial court's Knapstad ruling.

CASES CITED

- State v. Knapstad, 107 Wash. 2d 346, 729 P.2d 48 (1986)
- State v. Conte, 159 Wash. 2d 797, 803, 154 P.3d 194 (2007)
- State v. Burke, 132 Wash. App. 415, 132 P.3d 1095 (2006)
- State v. Stephenson, 89 Wash. App. 794, 807, 950 P.2d 38 (1998)
- State v. Russell, 124 Wash. App. 1008, 2004 WL 2526683 (2004)
- United States v. Balzano, 916 F.2d 1273, 1291-92 (7th Cir. 1990)
- State v. King, 135 Wash. App. 662, 145 P.3d 1224 (2006)
- Reed v. State, 91 Ark. App. 267, 209 S.W.3d 449 (2005)
- Commonwealth v. Burt, 40 Mass. App. Ct. 275, 663 N.E.2d 271 (1996)
- People v. Thomas, 83 Cal. App. 3d 511, 148 Cal. Rptr. 52 (1978)
- State v. Scherck, 9 Wash. App. 792, 514 P.2d 1393 (1973)