

SUPREME COURT OF IDAHO

State v. Dalrymple, 144 Idaho 628

167 P.3d 765 (2007) · No. No. 33447 · Decided July 2, 2007

SUMMARY

The Idaho Supreme Court affirmed David Allen Dalrymple's convictions and sentences for lewd conduct with a child, sexual abuse of a child, kidnapping, and related offenses. The court held that Dalrymple knowingly, intelligently, and voluntarily waived his right to counsel based on the totality of the circumstances, including extensive pretrial Faretta warnings. The court also rejected his claims concerning compulsory process, confrontation, judicial comments, and excessive sentencing.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Jones, Justice; Jones; Schroeder; Trout; Eismann; Burdick
JURISDICTION	Idaho
DECIDED	July 2, 2007
DOCKET	No. 33447
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State petitioned the Idaho Supreme Court for review of a Court of Appeals decision vacating Dalrymple's convictions for failure to provide contemporaneous Faretta warnings when he waived counsel during trial.
STANDARD OF REVIEW	The Idaho Supreme Court reviewed the case as though hearing a direct appeal from the trial court, while giving serious consideration to the Court of Appeals decision. Waiver of counsel was assessed under the totality of the circumstances. The decision to reopen a case and limitations on cross-examination were reviewed for abuse of discretion. Alleged prejudicial judicial comments were reviewed for whether they constituted improper commentary on the evidence. Criminal sentences were reviewed for abuse of discretion, with independent consideration of the offense, offender, and public-protection interests.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; binding precedent in Idaho.
PARTIES	David Allen Dalrymple v. State of Idaho

TOPICS

right to counsel

criminal procedure

sixth amendment

sentencing

evidence

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether Dalrymple knowingly, intelligently, and voluntarily waived his Sixth Amendment right to counsel when he discharged counsel after the evidentiary phase of trial.
2. Whether the district court impermissibly limited Dalrymple's Sixth Amendment right to compulsory process by refusing to allow him to recall K.B. as a witness.
3. Whether the refusal to permit additional cross-examination of K.B. violated Dalrymple's Sixth Amendment confrontation right.
4. Whether the district court made prejudicial comments on Dalrymple's testimony in the presence of the jury.
5. Whether Dalrymple's sentences were excessive and constituted an abuse of discretion.

HOLDINGS

1. Dalrymple knowingly, intelligently, and voluntarily waived his Sixth Amendment right to counsel.
2. The district court did not impermissibly coerce Dalrymple by requiring him to choose between proceeding with counsel without the proposed defense and discharging counsel to present the defense pro se.
3. The district court did not violate Dalrymple's Sixth Amendment right to compulsory process by refusing to allow him to recall K.B.
4. The district court did not violate Dalrymple's confrontation right by refusing to allow him to recall K.B. for additional cross-examination concerning the hypnosis defense.
5. The district court did not make prejudicial comments on Dalrymple's testimony.
6. The district court did not abuse its discretion by imposing the challenged sentences, which were within statutory limits and were reasonable in light of the offenses, Dalrymple's character, public protection, deterrence, rehabilitation, and retribution.

KEY QUOTATIONS

"Faretta warnings, however, do not need to be given contemporaneously to the defendant's waiver." (at 771)

"A defendant does not have the right to plow the same ground tilled by his attorney, merely by disposing of the attorney's services during the trial." (at 772)

FACTUAL BACKGROUND

Dalrymple was convicted of multiple offenses arising from the physical abuse and sexual abuse of his girlfriend and her daughter, K.B. Before trial, he expressed dissatisfaction with appointed counsel and received extensive warnings about the advantages of counsel and the risks of self-representation, initially deciding to retain counsel. After the evidentiary phase, he sought to present an unsupported hypnosis defense, discharged counsel, and proceeded pro se with standby counsel. The district court limited his hypnosis testimony, refused to recall K.B., and imposed felony sentences within the statutory limits.

PROCEDURAL HISTORY

Dalrymple was convicted in the district court of felony lewd conduct with a child, sexual abuse of a child, second-degree kidnapping, and several misdemeanors. After the Court of Appeals vacated the convictions based on the alleged lack of contemporaneous Faretta warnings, the State petitioned for review. The Idaho Supreme Court withdrew its prior opinion, issued this amended opinion, and affirmed the convictions and sentences; rehearing was denied September 13, 2007.

DISPOSITION

affirmed

CASES CITED

- State v. Cope, 142 Idaho 492, 495, 129 P.3d 1241, 1244 (2006)
- Garza v. State, 139 Idaho 533, 535, 82 P.3d 445, 447 (2003)
- Faretta v. California, 422 U.S. 806, 819, 834-835, 95 S. Ct. 2525, 2533, 2540-2541, 45 L. Ed. 2d 562, 572, 581-582 (1975)
- State v. Lovelace, 140 Idaho 53, 64, 90 P.3d 278, 289 (2003)
- State v. Hunnel, 125 Idaho 623, 625-626, 873 P.2d 877, 879-880 (1994)
- State v. Cutler, 94 Idaho 295, 298, 486 P.2d 1008, 1011 (1971)
- State v. Perry, 139 Idaho 520, 523, 81 P.3d 1230, 1233 (2003)
- United States v. Scheffer, 523 U.S. 303, 308, 118 S. Ct. 1261, 1264, 140 L. Ed. 2d 413, 418 (1998)
- State v. Lindsay, 124 Idaho 825, 828, 864 P.2d 663, 666 (Ct. App. 1993)
- Washington v. Texas, 388 U.S. 14, 19, 87 S. Ct. 1920, 1923, 18 L. Ed. 2d 1019, 1023 (1967)
- Taylor v. Illinois, 484 U.S. 400, 408-410, 108 S. Ct. 646, 652-654, 98 L. Ed. 2d 798, 809-811 (1988)
- United States v. Valenzuela-Bernal, 458 U.S. 858, 867-868, 102 S. Ct. 3440, 3446-3447, 73 L. Ed. 2d 1193, 1202-1203 (1982)
- State v. Kerchusky, 138 Idaho 671, 676, 67 P.3d 1283, 1288 (Ct. App. 2003)
- State v. Araiza, 124 Idaho 82, 91, 856 P.2d 872, 881 (1993)
- Delaware v. Van Arsdall, 475 U.S. 673, 679, 106 S. Ct. 1431, 1435, 89 L. Ed. 2d 674, 683 (1986)
- Delaware v. Fensterer, 474 U.S. 15, 20, 106 S. Ct. 292, 294, 88 L. Ed. 2d 15, 19 (1985)
- State v. White, 97 Idaho 708, 711-712, 551 P.2d 1344, 1347-1348 (1976)
- State v. Calley, 140 Idaho 663, 665-666, 99 P.3d 616, 618-619 (2004)

- State v. Sheahan, 139 Idaho 267, 284, 77 P.3d 956, 973 (2003)

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