

WASHINGTON SUPREME COURT

State v. Hessler

155 Wn. 2d 604 (2005) · Decided October 13, 2005

SUMMARY

The Washington Supreme Court reviews the reversal of a dismissal of first degree theft charges based on an alleged violation of the former speedy trial rule. The court holds that the threshold issue is whether the defendant was amenable to process during the period of delay, and that the State's due diligence obligation applies only during periods when he was amenable. Because factual issues remained regarding when the defendant returned to Washington and whether the State thereafter acted diligently, the court remands for further proceedings.

CASE DETAILS

COURT	Washington Supreme Court
JURISDICTION	Washington
DECIDED	October 13, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hessler sought review of the Court of Appeals decision reversing the superior court's dismissal of a first degree theft charge under former CrR 3.3. The Washington Supreme Court affirmed the reversal of the dismissal but remanded for further proceedings on Hessler's motion to dismiss.
STANDARD OF REVIEW	The court reviewed the lower courts' application of the speedy-trial rules and the legal standard governing constructive arraignment and amenability to process. Factual issues concerning when Hessler became amenable to process and whether the State thereafter acted with due diligence required further proceedings in the superior court.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.

TOPICS

- speedy trial
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Striker constructive-arraignment rule applies only if the defendant was amenable to process during the period of delay.
2. Whether the Court of Appeals properly reversed the superior court's dismissal without first determining when Hessler became amenable to process.
3. Whether factual issues remained concerning Hessler's amenability to process after his possible return to Washington and the State's due diligence thereafter.

HOLDINGS

1. The Striker rule applies when a defendant is amenable to process and a lengthy delay between the filing of the charge and the first court appearance occurred through no fault or connivance of the defendant. A defendant bears the initial burden of showing amenability to process.
2. A defendant who is out of state and not incarcerated is not amenable to process within the meaning of the Striker rule during that period, but the defendant may become amenable to process upon returning to Washington.
3. The Court of Appeals properly reversed the superior court's dismissal, but the matter must be remanded for further proceedings because factual issues remain regarding when Hessler became amenable to process and whether the State acted with due diligence thereafter.

KEY QUOTATIONS

“But because the applicable rules fail to address the consequences of long delay between the filing of the charge and the arraignment or first court appearance, this court has filled the gap through case law.” (607)

“Thus, issues of fact remain as to when Hessler became amenable to process and whether the State acted with due diligence thereafter.” (608)

FACTUAL BACKGROUND

The State charged Hessler with first degree theft in January 1998 and issued an arrest warrant, but Hessler was living in Minnesota and the State did not attempt to contact him. Hessler apparently returned to Washington around September 2002, but police did not arrest him until June 29, 2003. He was arraigned in July 2003 and moved to dismiss, arguing that the delay between the original charge and his first court appearance violated former CrR 3.3.

PROCEDURAL HISTORY

The State initially charged Hessler with first degree theft in Spokane County District Court in January 1998. After Hessler was arrested in June 2003, the State recharged him in superior court, and Hessler moved to dismiss based on an alleged violation of the rule-based speedy-trial requirements. The superior court dismissed the charge, the Court of Appeals reversed, and the Supreme Court affirmed the reversal while remanding for factual findings concerning amenability to process and the State's subsequent diligence.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The matter is remanded to the superior court for further proceedings on Hessler's motion to dismiss, including determining when Hessler became amenable to process and whether the State acted with due diligence thereafter.

CASES CITED

- State v. Stewart, 130 Wn.2d 351, 360, 922 P.2d 1356 (1996)
- State v. Hudson, 130 Wn.2d 48, 54, 921 P.2d 538 (1996)
- City of Seattle v. Guay, 150 Wn.2d 288, 296, 76 P.3d 231 (2003)
- State v. Hunnel, 52 Wn. App. 380, 384-86, 760 P.2d 947 (1988)
- State v. Striker, 87 Wn.2d 870, 557 P.2d 847 (1976)
- State v. Hessler, 123 Wn. App. 200, 98 P.3d 64 (2004)

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