

SUPREME COURT OF DELAWARE

Ross v. State

990 A.2d 424 (Del. 2010) · No. No. 347, 2009 · Decided February 23, 2010

SUMMARY

The Delaware Supreme Court affirmed Qwauntico Ross’s conviction and five-year minimum mandatory sentence for possession of a firearm by a person prohibited. The court held that Delaware Code title 11, section 1448(e)(1)c unambiguously requires the five-year minimum when a defendant has been convicted on two or more separate occasions of a violent felony, and declined to apply the rehabilitation-based interpretation used for the habitual offender statute. A dissent argued that mandatory enhanced penalties should require an opportunity for rehabilitation after a prior conviction.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Holland, Justice; Steele, Chief Justice; Berger, Justice; Jacobs, Justice; Ridgely, Justice
JURISDICTION	Delaware
DECIDED	February 23, 2010
DOCKET	No. 347, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a guilty-plea conviction and sentence for Possession of a Firearm by a Person Prohibited, challenging the applicable mandatory minimum sentence.
STANDARD OF REVIEW	De novo review of statutory interpretation and review of the legality of the sentence imposed under the statute.
PRECEDENTIAL VALUE	Published en banc opinion of the Supreme Court of Delaware; precedential.
PARTIES	Qwauntico Ross v. State of Delaware

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Delaware Code title 11, section 1448(e)(1)c, requiring a five-year minimum sentence for a prohibited person previously convicted on two or more separate occasions of a violent felony, is ambiguous.
2. Whether the sequencing and rehabilitation-opportunity requirement applied to Delaware's habitual-offender statute also applies to section 1448(e)(1)c.
3. Whether Ross's two prior cocaine convictions qualified as two separate violent-felony convictions under section 1448(e)(1)c.

HOLDINGS

1. Section 1448(e)(1)c is unambiguous because the statutory definition of conviction includes an accepted guilty plea and limits the term to that meaning.
2. The sequencing requirement developed under the habitual-offender statute does not apply to the PFBPP sentencing statute.
3. Ross's two prior convictions for Possession with Intent to Deliver Cocaine were separate violent-felony convictions within section 1448(e)(1)c, requiring a five-year minimum sentence.

KEY QUOTATIONS

“Accordingly, we hold the statute is unambiguous.” (429)

“The plain words of the statute require a judge to impose the five-year minimum mandatory sentence of incarceration for a defendant who has been previously convicted of committing two violent felonies on separate occasions.” (431)

“Therefore, we hold that Ross was properly sentenced to the five-year minimum sentence required by section 1448(e)(1)c.” (431)

FACTUAL BACKGROUND

In 2008, Dover police executed a search warrant at a townhouse where Ross was found holding a handgun. Officers also found ammunition and marijuana in the townhouse. Ross had two prior 1994 convictions for Possession with Intent to Deliver Cocaine arising from separate incidents; he pleaded guilty to the first before being arrested for the second, but he was sentenced on the first conviction after the second arrest.

PROCEDURAL HISTORY

A grand jury indicted Ross on seven charges. Ross pleaded guilty to five charges, and the State entered a nolle prosequi on the remaining two. The Superior Court determined that Ross had two prior violent-felony convictions on separate occasions and imposed the five-year mandatory minimum under Delaware Code title 11, section 1448(e)(1)c. Ross appealed, arguing that the court should apply the sequencing analysis used under the habitual-offender statute and impose only a one-year minimum.

DISPOSITION

affirmed

CASES CITED

- Hall v. State, 473 A.2d 352, 356-57 (Del. 1984)
- Buckingham v. State, 482 A.2d 327, 330-31 (Del. 1984)
- Johnson v. Butler, 1995 WL 48368, at *1 (Del. Jan. 30, 1995)
- LeVan v. Independence Mall, Inc., 940 A.2d 929, 932 (Del. 2007)
- In re Adoption of Swanson, 623 A.2d 1095, 1096-97 (Del. 1993)
- Ramirez v. Murdick, 948 A.2d 395, 398 (Del. 2008)
- Leatherbury v. Greenspun, 939 A.2d 1284, 1288-89 (Del. 2007)
- State v. Cooper, 575 A.2d 1074, 1075-76 (Del. 1990)
- Grand Ventures, Inc. v. Whaley, 632 A.2d 63, 68 (Del. 1993)
- Stop & Shop Cos., Inc. v. Gonzales, 619 A.2d 896, 899 (Del. 1993)
- Centaur Partners v. Nat'l Intergroup, Inc., 582 A.2d 923, 927 (Del. 1990)
- Lis v. State, 327 A.2d 746, 748 (Del. 1974)
- Pryor v. State, 453 A.2d 98, 100 (Del. 1982)
- State v. Robinson, 251 A.2d 552, 555 (Del. 1969)

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