

SUPREME COURT OF NEW HAMPSHIRE

State v. L'Heureux

150 N.H. 822 (2004) · Decided April 23, 2004

SUMMARY

The New Hampshire Supreme Court held that the trial court applied the wrong legal standard in determining whether the defendant could invoke the competing-harms defense to a charge of operating a vehicle with an alcohol concentration of .08 or more. The court ruled that the relevant inquiry is whether reasonable, lawful alternatives existed that would cause less, if any, harm than the otherwise illegal conduct. The conviction was vacated and the case remanded for application of the correct standard.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Nadeau, J.; Dalianis, J.; Duggan, J.
JURISDICTION	New Hampshire
DECIDED	April 23, 2004
DISPOSITION	vacated
PROCEDURAL POSTURE	The defendant appealed a bench-trial conviction for operating a motor vehicle with an alcohol concentration of .08 or more, arguing that the trial court improperly ruled as a matter of law that the competing-harms defense was unavailable.
STANDARD OF REVIEW	The Supreme Court reviewed the trial court's legal conclusions de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Laurent L'Heureux v. State

TOPICS

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

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate litigation

QUESTIONS PRESENTED

1. Whether the trial court applied the correct legal standard in determining whether the competing-harms defense was available.
2. Whether the competing-harms defense requires the defendant to show that no lawful alternative whatsoever existed, or instead that no reasonable lawful alternative existed that would cause less harm.
3. Whether, once the defense is sufficiently brought into play, the issue must be submitted to the trier of fact and the State must disprove the defense beyond a reasonable doubt.

HOLDINGS

1. A lawful alternative is not unavailable merely because some lawful alternative exists; the alternative must be reasonable and must cause less, if any, harm than the otherwise illegal conduct. The trial court therefore applied an overly demanding legal standard when it asked whether any lawful alternative existed.
2. When the competing-harms defense is not precluded as a matter of law and the defendant has sufficiently brought it into play, the defense must be submitted to the trier of fact; after the defense is established as available, the State bears the burden of disproving it beyond a reasonable doubt.

KEY QUOTATIONS

“We conclude that the trial court used the wrong legal standard when applying the second prong of the O’Brien test.” (827)

“We construe this requirement so as to promote justice, cf. RSA 625:3, and in accord with the holdings of courts in other jurisdictions, we conclude that in order for a lawful alternative to be “available” to the defendant, it must be reasonable.” (827)

FACTUAL BACKGROUND

During a holiday visit at a crowded lakeside neighborhood, a neighboring woman appeared with an automatic weapon and threatened to shoot a dog. After the defendant attempted to contact police, a host took away his cell phone, and repeated taxi calls were unsuccessful. The defendant, who was the least intoxicated person present, drove another person's vehicle toward a police station and was stopped after attracting an officer's attention; he displayed signs of intoxication and registered a .11 blood alcohol concentration.

PROCEDURAL HISTORY

Following a bench trial in the District Court for Southern Carroll County, the defendant was convicted under RSA 265:82, I(b), and the remaining driving-while-intoxicated complaint was dismissed. The trial court found that the defendant had shown a legally cognizable harm but ruled that the competing-harms defense was unavailable because he had not established that driving was the only lawful alternative. The Supreme Court of New Hampshire vacated and remanded for application of the correct legal standard.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court must apply the correct legal test—whether there were no reasonable, lawful alternatives that would cause less, if any, harm—and determine the competing-harms issue in the first instance.

CASES CITED

- State v. O'Brien, 132 N.H. 587, 589-591 (1989)
- State v. Wallace, 146 N.H. 146, 148 (2001)
- In the Matter of Watterworth & Watterworth, 149 N.H. 442, 445 (2003)
- State v. Bernard, 141 N.H. 230, 234-235 (1996)
- State v. Soucy, 139 N.H. 349, 352-353 (1995)
- Andrews v. People, 800 P.2d 607, 610 (Colo. 1990)