

SUPREME COURT OF FLORIDA

State of Florida v. Tony Garcia

No. SC19-1870, Supreme Court of Florida (August 25, 2022)

SUMMARY

The Florida Supreme Court held that a trial court's consideration of a defendant's post-arrest misconduct while out on bond during sentencing does not constitute fundamental error when the defendant failed to preserve the objection. The court quashed the Fourth District's decision requiring resentencing, finding that the sentencing judge's consideration of such evidence—without any indication of improper reliance—did not rise to the level of an illegal sentence or other rare fundamental error. The case clarifies the narrow scope of fundamental error in sentencing and reaffirms that unpreserved claims regarding impermissible sentencing factors require a showing of fundamental error, which was not met here.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	MUÑIZ, C.J.; CANADY, J.; POLSTON, J.; LAWSON, J.; GROSSHANS, J.
JURISDICTION	Florida
DECIDED	August 25, 2022
DOCKET	SC19-1870
DISPOSITION	quashed
PROCEDURAL POSTURE	Review of a decision of the Fourth District Court of Appeal in Garcia v. State, 279 So. 3d 148 (Fla. 4th DCA 2019), which affirmed the respondent's arson conviction but found that his due process rights were violated because his sentence may have been based on impermissible consideration of post-arrest misconduct.
STANDARD OF REVIEW	Whether it is fundamental error for a trial judge to consider evidence of any postarrest misconduct in fashioning a sentence is a pure question of law, which we review de novo. Cromartie v. State, 70 So. 3d 559, 563 (Fla. 2011).
PRECEDENTIAL VALUE	Published
PARTIES	State of Florida v. Tony Garcia

TOPICS

criminal procedure

sentencing

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standard of review

PRACTICE AREAS

Criminal Law

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QUESTIONS PRESENTED

1. Whether it is fundamental error for a trial judge to consider evidence of any postarrest misconduct in fashioning a sentence.

HOLDINGS

1. The trial court did not commit fundamental error by considering Garcia's post-arrest misconduct because the error, if any, was not of the magnitude of an illegal sentence or an arbitrary sentencing policy; the sentencing judge considered all evidence and gave no indication of improper reliance on the misconduct.

KEY QUOTATIONS

“Because we do not find fundamental error in Garcia’s unpreserved claim, we quash the decision of the Fourth District to the extent it requires that the Respondent be resentenced.” (at 12-13)

“Whether it is fundamental error for a trial judge to consider evidence of any postarrest misconduct in fashioning a sentence is a pure question of law, which we review de novo.” (at 7)

“In the sentencing context, we have found fundamental error very rarely.” (at 9)

“We cannot say that this determination reflects the trial court’s having committed fundamental error on the order of an illegal sentence.” (at 12)

FACTUAL BACKGROUND

Tony Garcia's home was scheduled for foreclosure. Seventeen days before the sale, his neighbor saw the house on fire. Garcia was charged with arson. His first trial ended in a hung jury. While released on bond pending retrial, Garcia engaged in multiple incidents of misconduct: he left the scene of a car crash while driving with a suspended license; he aimed a gun at a neighbor's face; he went to his ex-wife's house banging on the door, used a racial epithet against an officer, and threatened to shoot the neighbor and the officer; he was taken to a mental health facility but walked out and was found at a bar. The trial court revoked his bond. While in jail, Garcia threatened his ex-wife and daughter-in-law. At his second trial, he was convicted of first-degree arson. The presentence investigation report showed a 12th-grade education, unemployment due to disability, a prior battery conviction, and the suspended license conviction. The minimum permissible sentence was 34.8 months, maximum 360 months. Garcia moved for a downward departure to probation, citing terminal stomach cancer. The State recommended 84 months, emphasizing Garcia's bond misconduct and threats. The trial court declined to depart and sentenced Garcia to 84 months.

PROCEDURAL HISTORY

Tony Garcia was convicted of first-degree arson after a second trial. The trial court sentenced him to 84 months in prison. On direct appeal, the Fourth District Court of Appeal affirmed the conviction but reversed the sentence, holding that the trial court committed fundamental error by considering Garcia's post-arrest misconduct while out on bond. The State of Florida sought review in the Florida Supreme Court.

DISPOSITION

quashed

CASES CITED

- Garcia v. State, 279 So. 3d 148 (Fla. 4th DCA 2019)
- Banks v. State, 732 So. 2d 1065 (Fla. 1999)
- Norvil v. State, 191 So. 3d 406 (Fla. 2016)
- Strong v. State, 254 So. 3d 428 (Fla. 4th DCA 2018)
- Cromartie v. State, 70 So. 3d 559 (Fla. 2011)
- Ashford v. State, 274 So. 2d 517 (Fla. 1973)
- Gibson v. State, 351 So. 2d 948 (Fla. 1977)
- Castor v. State, 365 So. 2d 701 (Fla. 1978)
- Bain v. State, 730 So. 2d 296 (Fla. 2d DCA 1999)
- Parks v. State, 765 So. 2d 35 (Fla. 2000)
- Harvey v. State, 848 So. 2d 1060 (Fla. 2003)
- Thogode v. State, 763 So. 2d 281 (Fla. 2000)
- United States v. Watts, 519 U.S. 148 (1997)
- McMillan v. Pennsylvania, 477 U.S. 79 (1986)
- Alleyne v. United States, 570 U.S. 99 (2013)
- United States v. Barakat, 130 F.3d 1448 (11th Cir. 1997)
- Concepcion v. United States, 142 S. Ct. 2389 (2022)
- Dean v. United States, 581 U.S. 62 (2017)
- Williams v. New York, 337 U.S. 241 (1949)
- United States v. Booker, 543 U.S. 220 (2005)
- Provence v. State, 337 So. 2d 783 (Fla. 1976)