

SUPREME COURT OF VERMONT

State v. Liana M. Roy

203 A.3d 1177 (Vt. 2018) · No. 2017-270 · Decided December 7, 2018

SUMMARY

The Vermont Supreme Court held that the State had no common-law or statutory right to appeal a post-guilty-verdict judgment of acquittal under 13 V.S.A. § 7403. The Court also declined to grant extraordinary relief under Vermont Rule of Appellate Procedure 21, concluding that the trial court’s legal error did not constitute a usurpation of power. The Court withdrew its prior opinion, dismissed the appeal, and denied extraordinary relief.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Robinson, J.; Reiber, C.J.; Eaton, J.; Carroll, J.; Davenport, Supr. J. (Ret.), specially assigned
JURISDICTION	Vermont
DECIDED	December 7, 2018
DOCKET	2017-270
DISPOSITION	dismissed
PROCEDURAL POSTURE	The State appealed from the trial court’s post-guilty-verdict judgment of acquittal entered under Vermont Rule of Criminal Procedure 29(c). After initially reversing the acquittal, the Vermont Supreme Court reconsidered whether the State had a statutory right to appeal and whether the appeal could be treated as a petition for extraordinary relief under Vermont Rule of Appellate Procedure 21.
STANDARD OF REVIEW	The Court reviewed de novo the question whether the State had a statutory right to appeal and applied the narrow, discretionary standard governing extraordinary relief under Vermont Rule of Appellate Procedure 21.
PRECEDENTIAL VALUE	Published Vermont Supreme Court amended opinion; precedential.
PARTIES	State of Vermont v. Liana M. Roy

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QUESTIONS PRESENTED

1. Whether 13 V.S.A. § 7403 gives the State a statutory right to appeal a post-guilty-verdict judgment of acquittal entered under Vermont Rule of Criminal Procedure 29(c).
2. Whether the Vermont Supreme Court should treat the State's appeal as a petition for extraordinary relief under Vermont Rule of Appellate Procedure 21 and reverse the judgment of acquittal.

HOLDINGS

1. The State had no common-law or statutory right to appeal the trial court's post-guilty-verdict judgment of acquittal. The plain language and history of 13 V.S.A. § 7403 authorize appeals in specified circumstances but do not include judgments of acquittal.
2. The Court declined to exercise its authority to grant extraordinary relief reversing the judgment of acquittal, even though it concluded that the trial court had erred in interpreting the custodial-interference statute.

KEY QUOTATIONS

“We conclude that the State did not have a statutory right to appeal in this case, and decline to exercise our authority to grant extraordinary relief.” (¶ 1)

“Vermont statute does not authorize the State to appeal a judgment of acquittal entered by the court following a jury verdict of guilty, regardless of whether such an appeal would violate a defendant’s double-jeopardy rights.” (¶ 17)

“An error by the trial court resulting in improper acquittal of a defendant who was otherwise duly convicted is not on its own enough to meet that standard.” (¶ 24)

FACTUAL BACKGROUND

Roy took her four-year-old daughter, who was in the custody of the Department for Children and Families, on a two-day trip out of state without DCF's permission. She was charged with custodial interference and convicted by a jury. The trial court later entered a judgment of acquittal after concluding that the State had not introduced a court order detailing the parameters of Roy's parent-child contact and therefore had not established the required notice and intent.

PROCEDURAL HISTORY

Roy was charged with custodial interference and convicted by a jury. The trial court later granted her Rule 29(c) motion for judgment of acquittal, concluding that the State had failed to produce a court order specifying the parameters of her contact with the child. The State appealed, and the Supreme Court initially reversed and

remanded for entry of judgment and sentencing. Before the mandate issued, the Court requested briefing on its jurisdiction, withdrew its earlier opinion, dismissed the appeal, and denied extraordinary relief.

DISPOSITION

dismissed

CASES CITED

- United States v. Sanges, 144 U.S. 310 (1892)
- State v. Wainwright, 2013 VT 120, ¶ 6, 195 Vt. 370, 88 A.3d 423
- Robes v. Town of Hartford, 161 Vt. 187, 193, 636 A.2d 342, 347 (1993)
- State v. Mills, 133 Vt. 15, 19, 328 A.2d 410, 413 (1974)
- Evans v. Michigan, 568 U.S. 313, 318-19 (2013)
- United States v. Scott, 437 U.S. 82, 85 (1978)
- State v. Benjamin, 124 Vt. 20, 196 A.2d 507 (1963)
- State v. Saari, 152 Vt. 510, 568 A.2d 344 (1989)
- State, ex rel. Marsland v. Shintaku, 640 P.2d 289 (Haw. 1982) (per curiam)
- State v. Cannon, 369 So. 2d 32, 33 (Ala. 1979) (per curiam)
- State v. Manck, 870 A.2d 196, 207 (Md. 2005)
- State v. Dawson, 38 S.W.3d 319, 325 (Ark. 2001)
- State ex rel. State v. Wilson, 806 S.E.2d 458, 461 (W. Va. 2017)
- State v. Barrett, 2005 UT 88, ¶ 24, 127 P.3d 682

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