

SUPREME COURT OF OHIO

State v. Saxon, 109 Ohio St. 3d 176

846 N.E.2d 824 (Ohio 2006) · Decided March 20, 2006

SUMMARY

The Ohio Supreme Court held that an appellate court may modify or vacate only the sentence for an offense that was appealed, and may not vacate the entire multiple-offense sentence based on an error involving a single unchallenged offense. The court rejected the federal sentencing-package doctrine as incompatible with Ohio's offense-by-offense sentencing scheme and held that res judicata bars later challenges to sentences not raised on direct appeal.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Connor, J.; Moyer, C.J.; Resnick, J.; Lundberg Stratton, J.; O'Donnell, J.; Lanzinger, J.; Pfeifer, J.
JURISDICTION	Ohio
DECIDED	March 20, 2006
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed from an Eighth District Court of Appeals decision that vacated both the challenged sentence for a fourth-degree felony and an unchallenged sentence for a third-degree felony and remanded for resentencing. The Supreme Court of Ohio accepted jurisdiction to determine whether an appellate court may vacate or modify a sentence for an offense that the defendant did not appeal.
STANDARD OF REVIEW	De novo review of the meaning and application of R.C. 2953.08(G)(2), App.R. 12(A)(1)(b), and the Ohio sentencing statutes.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Ohio
PARTIES	State of Ohio v. Mark Saxon

TOPICS

sentencing

appellate procedure

statutory interpretation

preservation of error

criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an appellate court may vacate or modify the sentence for an offense that the defendant did not challenge on appeal when another sentence in a multiple-offense case is erroneous.
2. Whether Ohio recognizes or permits application of the federal sentencing-package doctrine.
3. Whether Ohio's sentencing statutes require appellate review and resentencing of each offense separately rather than treatment of multiple sentences as one sentencing package.

HOLDINGS

1. An appellate court may modify or vacate only a sentence appealed under R.C. 2953.08 and may not vacate the entire multiple-offense sentence based on an error in the sentence for one offense when the other sentence was not appealed.
2. Ohio does not recognize the federal sentencing-package doctrine; neither sentencing courts nor appellate courts may treat multiple Ohio felony sentences as an interdependent sentencing package.
3. A defendant who fails to challenge a sentence for a particular offense on direct appeal is barred by res judicata from challenging that sentence after remand for resentencing on other offenses.

KEY QUOTATIONS

“The question before this court is whether an appellate court may modify or vacate the entire multiple-offense sentence when a defendant assigns as error the sentence as to only one or more of those offenses but not the entire multiple-offense sentence. We find that it may not.” (176, ¶ 1)

“The sentencing-package’ doctrine has no applicability to Ohio sentencing laws: the sentencing court may not employ the doctrine when sentencing a defendant, and appellate courts may not utilize the doctrine when reviewing a sentence or sentences.” (180, ¶ 10)

“An appellate court may modify or vacate only a sentence that is appealed by the defendant and may not modify or vacate the entire multiple-offense sentence based upon an appealed error in the sentence for a single offense.” (183, ¶ 30)

FACTUAL BACKGROUND

A Cuyahoga County grand jury indicted Mark Saxon on six sexual-offense counts. Saxon pleaded guilty to one third-degree felony count of gross sexual imposition involving a victim under thirteen and one fourth-degree felony count of gross sexual imposition; the remaining charges were dismissed. The trial court imposed four years on each count, to be served concurrently, although four years exceeded the statutory maximum for the fourth-degree felony.

PROCEDURAL HISTORY

Saxon pleaded guilty to one count of gross sexual imposition involving a victim under age thirteen and one count of gross sexual imposition, while the State dismissed the remaining indictment counts. The trial court

imposed concurrent four-year sentences on both counts. On appeal, Saxon challenged only the sentence for the fourth-degree felony; the Eighth District vacated both sentences and remanded. The Supreme Court of Ohio reversed and remanded for further proceedings consistent with its opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Eighth District Court of Appeals for further proceedings consistent with the opinion, without vacating the unchallenged sentence.

CASES CITED

- State v. Saxon, 8th Dist. No. 83889, 2004-Ohio-5017, 2004 WL 2340106
- State v. Webb, 8th Dist. No. 85318, 2005-Ohio-3839, 2005 WL 1792364
- State v. Jackson, 10th Dist. No. 03AP-698, 2004-Ohio-1005, 2004 WL 396331
- In re Mitchell, 10th Dist. No. 01AP-74, 2001 WL 722104 (Ohio Ct. App. June 28, 2001)
- United States v. Clements, 86 F.3d 599 (6th Cir. 1996)
- State v. Foster, 109 Ohio St. 3d 1, 2006-Ohio-856, 845 N.E.2d 470
- State v. Mathis, 109 Ohio St. 3d 54, 2006-Ohio-855, 846 N.E.2d 1
- State v. Hutton, 100 Ohio St. 3d 176, 2003-Ohio-5607, 797 N.E.2d 948
- State v. D'Ambrosio, 73 Ohio St. 3d 141, 652 N.E.2d 710 (1995)
- State v. Perry, 10 Ohio St. 2d 175, 226 N.E.2d 104 (1967)
- State ex rel. Willys-Overland Co. v. Clark, 112 Ohio St. 263, 147 N.E. 33 (1925)
- Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)