

SUPREME COURT OF IOWA

State of Iowa v. Montreal Shorter

No. 18-1142 · No. No. 18-1142 · Decided June 12, 2020

SUMMARY

The Iowa Supreme Court held that Iowa Code section 724.4C criminalizes carrying a dangerous weapon while intoxicated, not mere actual or constructive possession. Because the jury instructions permitted conviction based on possession and the State emphasized that theory in closing argument, the instructional error was prejudicial. The court vacated the court of appeals decision, reversed the district court judgment, and remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Oxley, Justice
JURISDICTION	Iowa
DECIDED	June 12, 2020
DOCKET	No. 18-1142
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant sought further review of an Iowa Court of Appeals decision affirming his jury conviction for carrying a dangerous weapon while intoxicated under Iowa Code section 724.4C.
STANDARD OF REVIEW	Jury-instruction challenges are reviewed for correction of errors at law to determine whether the instruction accurately states the law. Ineffective-assistance-of-counsel claims are reviewed de novo. Once instructional error is established, prejudice is presumed and the State must prove lack of prejudice; reversal is required when the error misleads the jury or materially misstates the law.
PRECEDENTIAL VALUE	published
PARTIES	Montreal Shorter v. State of Iowa

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Iowa Code section 724.4C(1) criminalizes mere possession or constructive possession of a dangerous weapon while intoxicated, or only carrying a dangerous weapon.
2. Whether jury instructions allowing conviction based on possessing or carrying a dangerous weapon materially misstated the law and prejudiced Shorter.
3. Whether the instruction stating that an out-of-court opposing-party statement could be considered just as if made at trial misstated the law and should be corrected on retrial.
4. Whether ineffective-assistance-of-counsel claims required resolution on the appeal.

HOLDINGS

1. Iowa Code section 724.4C(1) prohibits carrying a dangerous weapon while intoxicated, not mere possession or constructive possession of a dangerous weapon.
2. The jury instructions materially misstated Iowa law by permitting the jury to convict Shorter if he possessed, including constructively possessed, a dangerous weapon, and the error was prejudicial.
3. An instruction telling the jury that an opposing-party out-of-court statement could be considered just as if it had been made at trial misstated the law and should not be used on retrial, although the court did not determine that the error was prejudicial in this case.

KEY QUOTATIONS

“We now hold Iowa Code section 724.4C prohibits only carrying, which requires more than mere possession, and the jury instructions were thus erroneous.” (at 2)

“The jury instructions that allowed the jury to convict Shorter if he either carried or possessed a dangerous weapon misstated the law.” (at 11)

“Because we cannot be certain that the jury convicted Shorter based on carrying the firearm, banned by Iowa Code section 724.4C, and not based on constructively possessing it, not banned, we find the misstatement of the law in the instructions was material and likely misled the jury.” (at 14)

“Opposing party out-of-court statements should not be treated “just as if made at trial,” and the instruction was erroneous.” (at 16)

FACTUAL BACKGROUND

After drinking at a friend's apartment, Montreal Shorter attempted to enter a Des Moines club with his friend. Following an altercation involving security guards and pepper spray, witnesses testified that Shorter walked toward his vehicle and reached inside, while a deputy later found Shorter's gun in a soft holster on the center console. Shorter testified that he never entered the vehicle or touched the gun and that it had remained in the console. A preliminary breath test showed an alcohol concentration of 0.113.

PROCEDURAL HISTORY

Shorter was charged in the Iowa District Court for Polk County and convicted by a jury of carrying a dangerous weapon while intoxicated. The district court also found him guilty of public intoxication. The Iowa Court of Appeals affirmed, and the Supreme Court of Iowa granted further review. The Supreme Court vacated the court of appeals decision, reversed the district court judgment, and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Iowa District Court for Polk County must conduct a new trial. The court of appeals decision is vacated and the district court judgment is reversed.

CASES CITED

- State v. Hoyman, 863 N.W.2d 1, 7, 15, 19 (Iowa 2015)
- State v. Guerrero Cordero, 861 N.W.2d 253, 257-58 (Iowa 2015)
- Alcala v. Marriott Int'l, Inc., 880 N.W.2d 699, 708 & n.3 (Iowa 2016)
- State v. Mathias, 936 N.W.2d 222, 226-27 (Iowa 2019)
- State v. Albright, 925 N.W.2d 144, 157 (Iowa 2019)
- State v. Benson, 919 N.W.2d 237, 241-42, 246-47 (Iowa 2018)
- State v. Thorndike, 860 N.W.2d 316, 319 (Iowa 2015)
- Muscarello v. United States, 524 U.S. 125, 132, 134, 118 S. Ct. 1911, 1916-17 (1998)
- James v. State, 16 So. 3d 322, 326 & n.2 (Fla. Dist. Ct. App. 2009)
- Gallman v. State, 14 A.3d 502, 505 (Del. 2011)
- Iowa Ins. Inst. v. Core Grp. of Iowa Ass'n for Justice, 867 N.W.2d 58, 72 (Iowa 2015)
- Phillips v. Chi. Cent. & Pac. R.R., 853 N.W.2d 636, 649 (Iowa 2014)
- United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 371, 108 S. Ct. 626, 630 (1988)
- Des Moines Flying Serv., Inc. v. Aerial Servs. Inc., 880 N.W.2d 212, 220-21 (Iowa 2016)
- State v. Tague, 676 N.W.2d 197, 201 (Iowa 2004)
- State v. Kennedy, 846 N.W.2d 517, 527 (Iowa 2014)
- Sullivan v. Louisiana, 508 U.S. 275, 279, 113 S. Ct. 2078, 2081 (1993)
- State v. Seiler, 342 N.W.2d 264, 268 (Iowa 1983)
- State v. Dudley, 856 N.W.2d 668, 677 (Iowa 2014)
- State v. Hanes, 790 N.W.2d 545, 552 (Iowa 2010)
- State v. Bayles, 551 N.W.2d 600, 606 (Iowa 1996)
- State v. Carter, 618 N.W.2d 374, 377-78 (Iowa 2000) (en banc)

- *Neder v. United States*, 527 U.S. 1, 30, 199 S. Ct. 1827, 1844 (1999)
- *United States v. Pizzaro*, 772 F.3d 284, 299 (1st Cir. 2014)
- *Jordan v. State*, 420 P.3d 1143, 1155-58 (Alaska 2018)
- *State v. Pearson*, 804 N.W.2d 260, 265 n.1 (Iowa 2011)
- *Harrell v. State*, 134 So. 3d 266, 270-75 (Miss. 2014)
- *State v. Kousounadis*, 986 A.2d 603, 616 (N.H. 2009)

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