

SUPREME COURT OF INDIANA

Jacobs v. State

835 N.E.2d 485 (Ind. 2005) · No. 49S02-0510-PC-471 · Decided October 13, 2005

SUMMARY

The Indiana Supreme Court held that its decision in *Ross v. State*, which barred double enhancement of a misdemeanor handgun offense through the general habitual offender statute, announced a substantive rule. Accordingly, *Ross* applied retroactively to cases under post-conviction review. The court directed the post-conviction court to vacate Anthony Jacobs's habitual offender conviction while otherwise affirming.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                           |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Indiana                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Shepard, Chief Justice; Shepard, C.J.; Dickson, J.; Sullivan, J.; Boehm, J.; Rucker, J.                                                                                                                                                                                   |
| JURISDICTION          | Indiana                                                                                                                                                                                                                                                                   |
| DECIDED               | October 13, 2005                                                                                                                                                                                                                                                          |
| DOCKET                | 49S02-0510-PC-471                                                                                                                                                                                                                                                         |
| DISPOSITION           | other                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Jacobs sought post-conviction relief based in part on <i>Ross v. State</i> , arguing that his habitual-offender enhancement was unlawful. The post-conviction court denied relief, and the Indiana Court of Appeals affirmed. The Indiana Supreme Court granted transfer. |
| STANDARD OF REVIEW    | The Supreme Court reviewed the legal question of <i>Ross</i> 's retroactive application in post-conviction proceedings and summarily affirmed the lower courts' rejection of Jacobs's other claims under Indiana Appellate Rule 58(A).                                    |
| PRECEDENTIAL VALUE    | Published Indiana Supreme Court opinion; precedential.                                                                                                                                                                                                                    |
| PARTIES               | Anthony Jacobs v. State of Indiana                                                                                                                                                                                                                                        |

TOPICS

- state post-conviction relief
- sentencing
- statutory interpretation
- post-conviction relief
- rule of lenity

## PRACTICE AREAS

criminal procedure

post-conviction relief

sentencing

## QUESTIONS PRESENTED

1. Whether *Ross v. State*, which held that a misdemeanor handgun offense elevated to a felony could not also be enhanced under the general habitual-offender statute, applies retroactively to cases on post-conviction review.
2. Whether *Ross* announced a substantive rule rather than a procedural rule subject to the *Daniels-Teague* bar on retroactive application.
3. Whether *Jacobs* was entitled to relief on his additional claims of ineffective assistance of trial and appellate counsel and that his stipulation was illusory or involuntary.

## HOLDINGS

1. *Ross* announced a substantive rule concerning the punishment authorized by Indiana's criminal statutes and therefore applies retroactively to cases on post-conviction review.
2. The post-conviction court must vacate *Jacobs*'s conviction under the habitual-offender statute.
3. The lower courts properly rejected *Jacobs*'s claims concerning ineffective assistance and the validity of his stipulation.

## KEY QUOTATIONS

*“Guided by the preceding cases and the principles underlying Teague, we hold that Ross announced a substantive rule and should be applied retroactively.”* (491)

*“We direct the post-conviction court to vacate Jacobs' conviction under the habitual offender statute, but otherwise affirm.”* (492)

## FACTUAL BACKGROUND

In 1996, Anthony Jacobs led Indianapolis police on a brief car chase and foot pursuit, during which he discarded a semiautomatic pistol and holster that police later recovered. He was convicted of carrying a handgun without a license and resisting law enforcement. The handgun offense was elevated to a felony, and Jacobs stipulated to prior convictions supporting both that elevation and a general habitual-offender enhancement. He received six years for the felony handgun conviction, an additional six years for the habitual-offender finding, and one concurrent year for resisting law enforcement.

## PROCEDURAL HISTORY

In 1997, a jury convicted Jacobs of carrying a handgun without a license and resisting law enforcement. After Jacobs stipulated to prior convictions, the handgun offense was elevated from a misdemeanor to a felony and the State obtained a general habitual-offender enhancement. The trial court imposed six years for the felony handgun conviction and an additional six years for the habitual-offender finding. The Court of Appeals affirmed the conviction on direct appeal. After the Indiana Supreme Court decided *Ross* in 2000, Jacobs filed post-conviction

petitions; the post-conviction court denied relief and the Court of Appeals affirmed. The Supreme Court granted transfer, held Ross retroactive, and directed the post-conviction court to vacate the habitual-offender conviction while affirming the disposition of Jacobs's other claims.

## DISPOSITION

other

## REMAND INSTRUCTIONS

The post-conviction court was directed to vacate Jacobs's conviction under the habitual-offender statute. The judgment was otherwise affirmed.

## CASES CITED

- Ross v. State, 729 N.E.2d 113, 116-17 (Ind. 2000)
- Daniels v. State, 561 N.E.2d 487, 489 (Ind. 1990)
- Teague v. Lane, 489 U.S. 288 (1989)
- Penry v. Lynaugh, 492 U.S. 302 (1989)
- State v. Mohler, 694 N.E.2d 1129, 1133-35, 1137 (Ind. 1998)
- Beard v. Banks, 542 U.S. 406, 410-16 (2004)
- Graham v. Collins, 506 U.S. 461, 468 (1993)
- Bousley v. United States, 523 U.S. 614, 620-21 (1998)
- Ring v. Arizona, 536 U.S. 584 (2002)
- State v. Towery, 204 Ariz. 386, 64 P.3d 828, 833 (2003)
- McNally v. United States, 483 U.S. 350, 358-60 (1987)
- State v. Lagundoye, 268 Wis. 2d 77, 674 N.W.2d 526, 534-36 (2004)
- In re E.B., 111 Wis. 2d 175, 330 N.W.2d 584, 591 (1983)
- In re Shane B., 198 Ariz. 85, 7 P.3d 94, 97 (2000)
- State v. Sutherland, 248 Kan. 96, 804 P.2d 970, 977 (1991)
- Bryant v. State, 660 N.E.2d 290, 300 (Ind. 1995)
- Payne v. State, 688 N.E.2d 164, 165 (Ind. 1997)