

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Manuel Alvarez-Hernandez v. State

No. 3D20-302 (Fla. 3d DCA Mar. 24, 2021) · No. No. 3D20-302 · Decided March 24, 2021

SUMMARY

The Third District Court of Appeal of Florida affirmed Manuel Alvarez-Hernandez’s sentence of twenty-five years in prison followed by ten years of reporting probation. The court held that the circumstances surrounding the rejected plea offer and post-trial sentence did not create a presumption of vindictiveness, and that the defendant failed to prove actual vindictiveness. The court also cautioned trial judges about conducting off-the-record plea discussions and reaffirmed the recordkeeping safeguards identified in *State v. Warner*.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	EMAS, C.J.; LINDSEY, J.; BOKOR, J.
JURISDICTION	Florida
DECIDED	March 24, 2021
DOCKET	No. 3D20-302
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a criminal judgment and sentence imposing twenty-five years in prison followed by ten years of reporting probation. The defendant challenged the sentence as vindictive after rejecting plea offers and proceeding to trial.
STANDARD OF REVIEW	De novo review applies to whether a defendant's sentence is vindictive because that issue presents a question of law.
PRECEDENTIAL VALUE	Published opinion of the Florida Third District Court of Appeal; precedential subject to Florida law governing publication and subsequent treatment.
PARTIES	Manuel Alvarez-Hernandez v. The State of Florida

TOPICS

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QUESTIONS PRESENTED

1. Whether the sentence imposed after the defendant rejected plea offers and proceeded to trial was presumptively vindictive under the totality of the circumstances.
2. Whether the defendant proved actual vindictiveness when the record did not establish a reasonable likelihood that the harsher sentence was imposed in retaliation for exercising the right to trial.

HOLDINGS

1. The totality of the circumstances did not create a presumption of vindictiveness. The successor judge's inquiry into prior plea offers and neutral renewal of an earlier offer, without urging acceptance or conditioning the sentence on a decision to proceed to trial, did not establish the relevant circumstances for shifting the burden to the State.
2. Alvarez-Hernandez failed to prove that the harsher sentence was imposed in retaliation for rejecting a plea and exercising his right to trial.

KEY QUOTATIONS

“We conclude, under the totality of the circumstances presented, that there is no “‘reasonable likelihood’ that the increase in sentence is the product of actual vindictiveness on the part of the sentencing authority.”” (7)

“One such safeguard is that a “record must be made of all plea discussions involving the court.”” (8)

FACTUAL BACKGROUND

Alvarez-Hernandez was charged with three violent felonies and rejected several plea offers, including an eleven-year prison offer and a six-year prison followed by five years' probation offer originally made by a predecessor judge. A successor judge inquired about prior plea offers and, without participating in the earlier negotiations, renewed the predecessor judge's six-year prison and five-year probation offer; Alvarez-Hernandez rejected it and proceeded to trial. After convictions on all counts, the judge imposed twenty-five years in prison followed by ten years of reporting probation, explaining at sentencing that the sentence was based on the trial evidence.

PROCEDURAL HISTORY

Alvarez-Hernandez was charged with attempted second-degree murder with a deadly weapon, aggravated battery, and aggravated assault with a deadly weapon. After rejecting multiple plea offers, including an offer renewed by the successor trial judge, he proceeded to trial and was convicted on all three counts. The successor judge imposed a total sentence of twenty-five years in prison followed by ten years of reporting probation, and the Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Williams v. State, 225 So. 3d 349, 353, 356 (Fla. 3d DCA 2017)
- Concepcion v. State, 188 So. 3d 5, 9 (Fla. 3d DCA 2016)
- Wilson v. State, 845 So. 2d 142, 156-57 (Fla. 2003)
- Rosado v. State, 129 So. 3d 1104 (Fla. 5th DCA 2013)
- Vondervor v. State, 847 So. 2d 610 (Fla. 5th DCA 2003)
- Prado v. State, 816 So. 2d 1155, 1164 (Fla. 3d DCA 2002) (Sorondo, J., concurring)
- Alabama v. Smith, 490 U.S. 794, 799 (1989)
- State v. Warner, 762 So. 2d 507, 513-14 (Fla. 2000)

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