

SUPREME COURT OF OREGON

Janowski v. Board of Parole & Post-Prison Supervision, 349 Or. 432

245 P.3d 1270 (2010) · No. SC S057120, S057276; SC S057245; CA A130409; CA A133967 · Decided
December 23, 2010

SUMMARY

The Supreme Court of Oregon held that the Board of Parole and Post-Prison Supervision had authority under former ORS 163.105 to override a 30-year mandatory minimum sentence for aggravated murder after finding that a prisoner was capable of rehabilitation within a reasonable period. The court further held that the parole matrix system governed the Board's release-date decisions after conversion of the sentence to life imprisonment with the possibility of parole. The court affirmed in part and reversed in part the Court of Appeals' decisions in the consolidated Janowski and Fleming cases.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Gillette, J.
JURISDICTION	Oregon
DECIDED	December 23, 2010
DOCKET	SC S057120, S057276; SC S057245; CA A130409; CA A133967
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Consolidated judicial-review proceedings arising from Oregon Court of Appeals decisions concerning the Board of Parole and Post-Prison Supervision's authority to override aggravated-murder mandatory minimum sentences and the governing parole-release standards.
STANDARD OF REVIEW	The court reviewed the Board's conclusion that it lacked authority under ORS 163.105 (1985) to override the mandatory minimum sentence for legal error and interpreted the statute using the statutory-interpretation methodology stated in <i>State v. Gaines</i> .
PRECEDENTIAL VALUE	published binding en banc opinion
PARTIES	Kenneth Frederick Janowski, Board of Parole and Post-Prison Supervision, Ridge Wayne Fleming v. Board of Parole and Post-Prison Supervision, Kenneth Frederick Janowski, Ridge Wayne Fleming

TOPICS

statutory interpretation

administrative law

judicial review of agency action

parole

sentencing

PRACTICE AREAS

administrative law

criminal law

parole

statutory interpretation

post-conviction relief

QUESTIONS PRESENTED

1. Whether ORS 163.105 (1985) authorized the Board of Parole and Post-Prison Supervision to override a 30-year mandatory minimum sentence for aggravated murder and release a prisoner on parole after 20 years upon a finding of likely rehabilitation.
2. Which statutes and administrative rules governed the Board's parole-release decision after it converted the prisoner's confinement to life imprisonment with the possibility of parole.
3. Whether the applicable parole matrix required the Board to set release dates for Janowski and Fleming, including whether Janowski was entitled to immediate release because his matrix range had expired.

HOLDINGS

1. ORS 163.105 (1985) authorized the Board, after the required rehabilitation hearing and finding, to convert the prisoner's confinement to life imprisonment with the possibility of parole, thereby overriding the 30-year mandatory minimum and permitting parole consideration after 20 years.
2. After conversion under ORS 163.105(3) (1985), the Board was required to set the prisoner's parole release date according to the parole matrix in effect when the prisoner committed the offense.
3. Janowski was not automatically entitled to immediate release; the Board first had to conduct a hearing and set a parole release date under the applicable matrix. Once a release date was set, the Board could postpone release only on the statutory grounds provided by ORS 144.125 (1985).

KEY QUOTATIONS

“Thus, ORS 163.105(3) (1985), in requiring conversion of the prohibition on parole to the possibility of parole, necessarily eliminates the 30-year mandatory minimum sentence.” (349 Or. at 1275)

“We therefore conclude, at this point in our analysis, that text and context indicate that the legislature intended the board to have the authority to override the 30-year mandatory minimum aggravated murder sentence and to release prisoners on parole before the expiration of that term.” (349 Or. at 1277)

“For all those reasons, we conclude that the legislature intended the board, having converted the terms of a prisoner's confinement to life in prison with the possibility of parole, to set a release date in accordance with the parole matrix in place when the prisoner committed his offense.” (349 Or. at 1283)

“However, if, after conducting such an interview, the board concludes that none of the statutory grounds for postponement is present, the board must release Janowski on parole on his release date.” (349 Or. at 1285)

FACTUAL BACKGROUND

Janowski murdered his parents in February 1985 and pleaded guilty to two aggravated-murder counts, which were merged into one conviction. Fleming committed aggravated murder during a robbery in November 1985 and was convicted in 1986. Both were sentenced to life imprisonment with 30-year mandatory minimum terms under ORS 163.105 (1985). After each had served 20 years, the Board unanimously found that he was capable of rehabilitation and converted the terms of confinement to life imprisonment with the possibility of parole, but initially set each release date at the end of the 30-year minimum term.

PROCEDURAL HISTORY

Janowski and Fleming petitioned for rehabilitation hearings after serving 20 years of their 30-year mandatory minimum sentences for aggravated murder. The Board found each prisoner capable of rehabilitation but set release dates at the end of the 30-year terms. The Oregon Court of Appeals held that the Board could override the mandatory minimums and release the prisoners after 20 years, but remanded for the Board to determine which statutes and rules governed the release decisions. The Oregon Supreme Court affirmed the authority ruling, reversed the remand for determination of applicable law, and remanded for the Board to set release dates under the applicable parole matrix.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Board must conduct hearings using appropriate procedures to set Janowski's and Fleming's parole release dates according to the parole matrix in effect when each committed his offense. After setting a release date, the Board may postpone it only on grounds authorized by ORS 144.125 (1985); absent a statutory ground for postponement, the prisoner must be released on the scheduled date.

CASES CITED

- State v. Gaines, 346 Or. 160, 206 P.3d 1042 (2009)
- Severy/Wilson v. Board of Parole and Post-Prison Supervision, 349 Or. 461, 245 P.3d 119 (2010)
- State v. Dahl, 336 Or. 481, 87 P.3d 650 (2004)
- State v. Shumway, 291 Or. 153, 630 P.2d 796 (1981)
- State v. Wille, 317 Or. 487, 858 P.2d 128 (1993)
- Norris v. Board of Parole, 331 Or. 194, 13 P.3d 104 (2000)
- Hamel v. Johnson, 330 Or. 180, 998 P.2d 661 (2000)
- Severy v. Board of Parole, 318 Or. 172, 864 P.2d 368 (1993)
- Engweiler v. Board of Parole, 343 Or. 536, 175 P.3d 408 (2007)
- Roy v. Palmateer, 339 Or. 533, 124 P.3d 603 (2005)
- Fleming v. Board of Parole, 225 Or. App. 578, 202 P.3d 209 (2009)
- Janowski v. Board of Parole, 226 Or. App. 82, 202 P.3d 920 (2009)

