

SUPREME COURT OF COLORADO

A.P.E. v. People

20 P.3d 1179 (Colo. 2001) · No. No. 99SC392 · Decided March 26, 2001

SUMMARY

The Colorado Supreme Court held that carrying a concealed knife with a blade shorter than three and one-half inches does not, by itself, violate Colorado's concealed weapons statute. The prosecution must prove that the defendant intended to use the knife as a weapon, and that intent cannot be inferred solely from the knife's appearance. The court reversed and remanded for a new trial on the concealed weapon charge.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Chief Justice Mullarkey; Mullarkey; Kourlis; Bender; Coats
JURISDICTION	Colorado
DECIDED	March 26, 2001
DOCKET	No. 99SC392
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	A juvenile sought review of a Colorado Court of Appeals decision affirming his conviction for unlawfully carrying a concealed weapon. The Colorado Supreme Court granted certiorari on whether a defendant may be convicted for carrying a concealed knife with a blade less than three and one-half inches without evidence of specific intent to use it as a weapon.
STANDARD OF REVIEW	De novo review applies to interpretation of the statutory catchall definition of a knife.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Colorado; en banc.
PARTIES	A.P.E., a Juvenile v. The People of the State of Colorado

TOPICS

statutory interpretation

plain meaning rule

criminal procedure

PRACTICE AREAS

criminal law

criminal procedure

statutory interpretation

weapons offenses

juvenile law

QUESTIONS PRESENTED

1. Whether a defendant may be convicted under Colorado's concealed-weapons statute for carrying a knife with a blade less than three and one-half inches long when the prosecution presents no evidence, other than the object's outward appearance, that the defendant intended to use it as a weapon.
2. Whether the statutory catchall definition of a knife requires proof that the defendant used or intended to use the instrument as a weapon.

HOLDINGS

1. A defendant may not be convicted under the concealed-weapons statute for carrying a knife with a blade less than three and one-half inches long unless the prosecution proves that the defendant used or intended to use the knife as a weapon.
2. The appearance or design of a short-bladed knife may be relevant to intent but cannot, by itself, establish the defendant's intent to use the knife as a weapon.

KEY QUOTATIONS

"We conclude that, to sustain a conviction under the concealed weapons statute in a case involving a knife with a blade less than three and one-half inches long, the prosecution must prove that the defendant used or intended to use the knife as a weapon." (1180)

"Such intent cannot be inferred solely from the appearance of the item at issue." (1182)

"The test is not whether the defendant actually used an instrument as a weapon but whether at least one of the reasons the defendant carried the instrument was to use it as a weapon." (1184)

"A knife's design does not by itself prove that the person carrying it intended to use it as a weapon." (1186)

FACTUAL BACKGROUND

A police officer stopped fourteen-year-old A.P.E. near a busy street and discovered a T-handled push knife concealed in a scabbard on his belt during a pat-down search. The knife had a blade shorter than three and one-half inches, finger grooves resembling metallic knuckles, and additional metal points. A defense expert described it as a poor-quality, decorative or statement knife that could be used to inflict wounds but also had an innocent use as a skinning knife. The trial court found the object fell within the statutory catchall definition of a knife but did not determine whether A.P.E. intended to use it as a weapon.

PROCEDURAL HISTORY

The trial court dismissed the harassment charge but convicted A.P.E. of possessing an illegal weapon and carrying a concealed weapon. The Colorado Court of Appeals affirmed both convictions. The Colorado Supreme Court granted certiorari only as to the concealed-weapon conviction, reversed the court of appeals, and remanded for a new trial or other proceedings consistent with its opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the court of appeals' decision and remand with directions to return the case to the trial court for proceedings consistent with the opinion, including a determination of intent based on all relevant circumstances.

CASES CITED

- Welch v. George, 19 P.3d 675, 677 (Colo. 2001)
- Fogg v. Macaluso, 892 P.2d 271, 273 (Colo. 1995)
- People ex rel. A.P.E., 988 P.2d 172, 174-176 (Colo. App. 1999)
- Pueblo v. Sanders, 151 Colo. 216, 376 P.2d 996, 997 (1962)
- Avi-Comm, Inc. v. Colo. Pub. Utils. Comm'n, 955 P.2d 1023, 1031 (Colo. 1998)
- People v. Gross, 830 P.2d 933, 935-941 (Colo. 1992)
- People v. Tenorio, 197 Colo. 137, 590 P.2d 952, 957 (1979)
- Anderson v. State, 328 Md. 426, 614 A.2d 963, 965, 968, 971 (1992)
- People v. Lynn, 459 Mich. 53, 586 N.W.2d 534 (1998)
- Mihas v. United States, 618 A.2d 197, 201 (D.C. 1992)
- State v. Choat, 178 W. Va. 607, 363 S.E.2d 493, 501-502 (1987)
- State v. Blea, 100 N.M. 237, 668 P.2d 1114, 1116 (N.M. Ct. App. 1983)
- People v. Rubalcava, 23 Cal. 4th 322, 1 P.3d 52, 58-59 (2000)
- State v. Vermilya, 423 N.W.2d 153, 155 (N.D. 1988)
- State v. Watts, 223 N.W.2d 234, 237-239 (Iowa 1974)
- J.D.C. v. District Court, 910 P.2d 684, 688 (Colo. 1996)
- Hutton v. People, 156 Colo. 334, 398 P.2d 973, 975 (1965)
- People v. D.F., 933 P.2d 9, 14 (Colo. 1997)
- Austin v. Weld County, 702 P.2d 293, 294 (Colo. App. 1985)
- Lyman v. Town of Bow Mar, 188 Colo. 216, 533 P.2d 1129, 1133 (1975)
- People v. Revello, 735 P.2d 487, 491 (Colo. 1987)
- State v. Kelly, 118 N.J. 370, 571 A.2d 1286, 1292-1293 (1990)
- State v. Holloway, 11 Conn. App. 665, 528 A.2d 1176, 1178 (1987)
- Dorsey v. State, 212 Ga. App. 830, 442 S.E.2d 922, 923 (1994)
- State v. Beckert, 144 N.H. 315, 741 A.2d 63, 66 (1999)
- Robertson v. City & County of Denver, 874 P.2d 325, 333-335 (Colo. 1994)
- People v. Hickman, 988 P.2d 628, 635-636 (Colo. 1999)
- Robinson v. State, 547 So. 2d 321, 323 (Fla. Dist. Ct. App. 1989)

- State v. Baldwin, 571 S.W.2d 236, 241 (Mo. 1978)
- Knight v. State, 993 P.2d 67, 73 (Nev. 2000)
- Coleman v. State, 790 S.W.2d 369, 372 (Tex. Crim. App. 1990)

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