

SUPREME COURT OF COLORADO

People v. Stellabotte

2018 CO 66 (2018) · No. No. 16SC661 · Decided July 2, 2018

SUMMARY

The Colorado Supreme Court held that ameliorative amendatory legislation applies retroactively to convictions that were not final when the amendment took effect, unless the amendment expressly limits application to the future. The court concluded that section 18-1-410(1)(f), C.R.S., provides an exception to the general presumption of prospective statutory operation. It affirmed the judgment requiring John Stellabotte to receive the benefit of a theft-statute amendment that reduced the classification and corresponding sentence for his felony theft convictions.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Hood; Chief Justice Coats; Justice Boatright; Justice Gabriel
JURISDICTION	Colorado
DECIDED	July 2, 2018
DOCKET	No. 16SC661
DISPOSITION	affirmed
PROCEDURAL POSTURE	The People petitioned for certiorari review of a published, split decision of a division of the Colorado Court of Appeals holding that a silent, ameliorative amendment to the theft statute applied retroactively to Stellabotte's non-final convictions.
STANDARD OF REVIEW	De novo review applies to questions of statutory interpretation.
PRECEDENTIAL VALUE	Published, precedential Colorado Supreme Court opinion; en banc
PARTIES	The People of the State of Colorado v. John Arthur Stellabotte

TOPICS

statutory interpretation sentencing post-conviction relief appellate procedure standard of review

PRACTICE AREAS

criminal law criminal sentencing post-conviction relief statutory interpretation appellate procedure

QUESTIONS PRESENTED

1. Whether an ameliorative amendment to a criminal statute that is silent regarding retroactive or prospective application applies retroactively to a conviction that was not final when the amendment became effective.
2. Whether section 18-1-410(1)(f), C.R.S. (2017), operates as an exception to the general presumptions of prospective application in sections 2-4-202 and 2-4-303, C.R.S. (2017).
3. Whether Stellabotte was entitled to resentencing under the 2013 amendment to the theft statute.

HOLDINGS

1. Ameliorative, amendatory criminal legislation applies retroactively under section 18-1-410(1)(f) to convictions that were not final when the amendment became effective, unless the amendment contains language indicating that it applies only prospectively.
2. Section 18-1-410(1)(f) is a specific statutory exception to the general presumptions of prospective application in sections 2-4-202 and 2-4-303.
3. Stellabotte was entitled to the ameliorative effect of the 2013 theft amendment because his convictions were not final when the amendment became effective and the amendment was silent regarding prospectivity.

KEY QUOTATIONS

“In this opinion, we hold that ameliorative, amendatory legislation applies retroactively to non-final convictions under section 18-1-410(1)(f), unless the amendment contains language indicating it applies only prospectively.” (¶ 3)

“And as the more specific provision, section 18-1-410(1)(f) acts as an exception to sections 2-4-202 and 2-4-303.” (¶ 33)

“Accordingly, we hold that ameliorative, amendatory legislation applies retroactively to non-final convictions under section 18-1-410(1)(f), unless the amendment contains language indicating it applies only prospectively.” (¶ 38)

FACTUAL BACKGROUND

Stellabotte operated a towing company and illegally towed two vehicles, demanding payment from their owners for their return. When he committed the thefts in 2012, the applicable offense was a class 4 felony. Before he was convicted and sentenced, the General Assembly amended the theft statute to classify theft of property valued between \$5,000 and \$20,000 as a class 5 felony, but the amendment did not specify whether it applied prospectively or retroactively. The trial court sentenced him under the old statute, resulting in concurrent twenty-four-year habitual-offender sentences on the two felony theft counts; under the amended classification, the applicable sentence would have been twelve years on each count.

PROCEDURAL HISTORY

Stellabotte was convicted by a jury of aggravated motor vehicle theft, two felony theft counts, and misdemeanor theft, and was adjudicated a habitual offender. The trial court sentenced him under the pre-amendment theft statute to concurrent twenty-four-year sentences on the two felony theft counts. The Colorado Court of Appeals reversed in relevant part, concluding that the 2013 amendment reducing the theft classification applied retroactively. The Colorado Supreme Court granted certiorari, affirmed the court of appeals, and remanded for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case is remanded for further proceedings consistent with the opinion, including resentencing on the two felony theft convictions under the ameliorative 2013 theft amendment.

CASES CITED

- People v. Thomas, 185 Colo. 395, 525 P.2d 1136 (1974)
- People v. Thornton, 187 Colo. 202, 529 P.2d 628 (1974)
- People v. Griswold, 190 Colo. 136, 543 P.2d 1251 (1975)
- People v. Truesdale, 190 Colo. 286, 546 P.2d 494 (1976)
- Glazier v. People, 193 Colo. 268, 565 P.2d 935 (1977)
- People v. Bloom, 195 Colo. 246, 577 P.2d 288 (1978)
- People v. Macias, 631 P.2d 584 (Colo. 1981)
- People v. McCoy, 764 P.2d 1171 (Colo. 1988)
- Riley v. People, 828 P.2d 254 (Colo. 1992)
- People v. Boyd, 2015 COA 109, 395 P.3d 1128
- People v. Russell, 2014 COA 21M, 396 P.3d 71
- People v. Patton, 2018 CO 67, 421 P.3d 184
- State Farm Mut. Auto. Ins. Co. v. Fisher, 2018 CO 39, 418 P.3d 501
- Martin v. People, 27 P.3d 846 (Colo. 2001)
- Huber v. Colo. Mining Ass'n, 264 P.3d 884 (Colo. 2011)
- Town of Eagle v. Scheibe, 10 P.3d 648 (Colo. 2000)