

SUPREME COURT OF PENNSYLVANIA

Commonwealth v. Wolfe

No. 68 MAP 2015 (Pa. June 20 2016) (Todd, J., dissenting) · No. No. 68 MAP 2015 · Decided June 20, 2016

SUMMARY

This is a dissenting opinion by Justice Todd in the Supreme Court of Pennsylvania concerning the constitutionality of a mandatory minimum sentence imposed under 42 Pa.C.S. § 9718(a)(1). The dissent argues that the *Alleyne v. United States* requirements were satisfied because the victim's age was an element charged and found by the jury beyond a reasonable doubt, and further contends that any sentencing error was harmless. The dissent also distinguishes the Court's decision in *Commonwealth v. Hopkins*.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Todd
JURISDICTION	Pennsylvania
DECIDED	June 20, 2016
DOCKET	No. 68 MAP 2015
DISPOSITION	reversed
PROCEDURAL POSTURE	The Commonwealth appealed from the Superior Court's order vacating and remanding Wolfe's judgment of sentence. Justice Todd dissented from the Pennsylvania Supreme Court majority's disposition granting sentencing relief.
PRECEDENTIAL VALUE	nonprecedential as to the dissenting analysis
PARTIES	Commonwealth of Pennsylvania v. Matthew Bryan Wolfe

TOPICS

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QUESTIONS PRESENTED

1. Whether imposing a mandatory minimum sentence under 42 Pa.C.S. § 9718(a)(1) violated the Sixth Amendment under *Alleyne v. United States* when the fact triggering the minimum was also an element of the offense found by the jury beyond a reasonable doubt.
2. Whether any constitutional sentencing error was harmless when the jury actually found the fact triggering the mandatory minimum beyond a reasonable doubt.
3. Whether *Commonwealth v. Hopkins* required invalidation of Wolfe's sentence or the sentencing statute despite the factual distinction that the triggering fact here was an element of the underlying offense.

HOLDINGS

1. In the dissent's view, Wolfe suffered no Sixth Amendment violation because the fact triggering the mandatory minimum—the victim's age—was charged as an element of the offense and found by the jury beyond a reasonable doubt.
2. In the dissent's view, *Commonwealth v. Hopkins* did not require relief because Hopkins addressed a mandatory minimum triggered by a fact that was not an element of the underlying offense, whereas Wolfe's triggering fact was an element found by the jury beyond a reasonable doubt.
3. Alternatively, the dissent would hold that any Alleyne-related sentencing error was harmless because the jury actually found the triggering fact beyond a reasonable doubt.

KEY QUOTATIONS

“The United States Supreme Court in Alleyne v. United States specified that, to satisfy the jury trial right in the Sixth Amendment to the United States Constitution, any fact that triggers a mandatory minimum sentence must be (1) stated in the information; (2) an element of the offense; (3) found by a jury; and (4) found beyond a reasonable doubt.” (J-24-2016 at 1)

“Accordingly, pursuant to Alleyne, Appellee’s rights under the Sixth Amendment have been satisfied, he has suffered no constitutional deprivation, and, thus, in my view, he is not entitled to relief.” (J-24-2016 at 1)

“Any fact that, by law, increases the penalty for a crime is an ‘element’ that must be submitted to the jury and found beyond a reasonable doubt.” (J-24-2016 at 4)

“Thus, it is this fact-based inquiry underlying the constitutional protections recognized in Alleyne that is the proper focus of a Sixth Amendment analysis.” (J-24-2016 at 5)

“In short, Appellee’s mandatory minimum sentence was imposed by a trial court pursuant to the authority of Section 9718 in a manner that, in these circumstances, fully comports with Alleyne.” (J-24-2016 at 10)

“In my view, the majority’s rejection of a harmless error analysis herein is inconsistent with the teachings of Alleyne, subsequent state and federal caselaw, and common sense.” (J-24-2016 at 13)

FACTUAL BACKGROUND

Wolfe was convicted of involuntary deviate sexual intercourse under 18 Pa.C.S. § 3123(a)(7), an offense requiring proof that the complainant was under sixteen and that the defendant was at least four years older. The trial court imposed a ten-year mandatory minimum sentence under 42 Pa.C.S. § 9718(a)(1), which applies when

the victim is under sixteen. The same age-related fact both constituted an element of the offense and triggered the mandatory minimum, and the jury found that fact beyond a reasonable doubt.

PROCEDURAL HISTORY

The Lancaster County Court of Common Pleas imposed concurrent sentences resulting in an aggregate sentence of ten to twenty years' imprisonment, including ten-year mandatory minimum sentences for each relevant count under 42 Pa.C.S. § 9718(a)(1). The Superior Court vacated and remanded the judgment of sentence. In this dissent, Justice Todd would have reversed the Superior Court's order and upheld the sentence because the jury found beyond a reasonable doubt the fact triggering the mandatory minimum.

DISPOSITION

reversed

CASES CITED

- *Alleyne v. United States*, 133 S. Ct. 2151 (2013)
- *Commonwealth v. Hopkins*, 117 A.3d 247 (Pa. 2015)
- *Peugh v. United States*, 133 S. Ct. 2072 (2013)
- *United States v. Gaudin*, 515 U.S. 506 (1995)
- *McMillan v. Pennsylvania*, 477 U.S. 79 (1986)
- *Apprendi v. New Jersey*, 530 U.S. 466 (2000)
- *Commonwealth v. Hale*, 128 A.3d 781 (Pa. 2015)
- *Washington v. Recuenco*, 548 U.S. 212 (2006)
- *Lightfoot v. State*, 152 So. 3d 445 (Ala. 2013)
- *Arizona v. Lizardi*, 323 P.3d 1152 (Ariz. App. 2014)
- *Britten v. State*, 181 So. 3d 1215 (Fla. App. 2015)
- *State v. Willan*, 41 N.E.3d 366 (Ohio 2015)
- *United States v. Harakaly*, 734 F.3d 88 (1st Cir. 2013)
- *United States v. Lewis*, 802 F.3d 449 (3d Cir. 2015)
- *United States v. Mack*, 729 F.3d 594 (6th Cir. 2013)
- *United States v. Lara-Ruiz*, 721 F.3d 554 (8th Cir. 2013)
- *United States v. Carr*, 761 F.3d 1068 (9th Cir. 2014)
- *United States v. Payne*, 763 F.3d 1301 (11th Cir. 2014)
- *Commonwealth v. Resto*, 774 MAL 2015