

SUPREME COURT OF UTAH

State of Utah v. Eryk Drej

233 P.3d 476 (Utah 2010) · No. No. 20080003 · Decided May 14, 2010

SUMMARY

The Utah Supreme Court upheld Utah's special mitigation statute, which permits a one-degree reduction in certain homicide convictions when a defendant acted under the influence of a qualifying mental illness or delusion. The court held that special mitigation is neither an affirmative defense nor a substantive offense, so assigning the defendant the burden of proving it by a preponderance of the evidence did not violate due process. The court also rejected separation-of-powers and equal-protection challenges.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Chief Justice Durham; Associate Chief Justice Durrant; Justice Wilkins; Justice Parrish; Justice Nehring
JURISDICTION	Utah
DECIDED	May 14, 2010
DOCKET	No. 20080003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from a district court ruling rejecting the defendant's constitutional challenge to Utah's special mitigation statute and determining that the statute could place the burden of proving special mitigation on the defendant.
STANDARD OF REVIEW	Constitutionality of a statute is reviewed for correctness as a question of law, without deference to the trial court; challenged legislation is presumed constitutional and reasonable doubts are resolved in favor of constitutionality.
PRECEDENTIAL VALUE	precedential
PARTIES	Eryk Drej v. State of Utah

TOPICS

- criminal procedure
- due process
- equal protection
- separation of powers
- statutory interpretation

PRACTICE AREAS

criminal law

constitutional law

criminal procedure

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether Utah's special mitigation statute violates federal or state due process by requiring the defendant to prove special mitigation by a preponderance of the evidence.
2. Whether the special mitigation statute is a procedural rule that the Utah Legislature could enact only by the supermajority vote required for legislative amendments to judicial rules of procedure and evidence.
3. Whether the statute violates federal equal protection or Utah's uniform-operation-of-laws provision by imposing a different burden on mentally ill defendants than on defendants asserting imperfect self-defense or other affirmative defenses.

HOLDINGS

1. Special mitigation is not an affirmative defense under Utah law, and the Legislature may require the defendant to prove it by a preponderance of the evidence.
2. Special mitigation is neither a substantive criminal offense nor a lesser-included offense, so due process does not require the State to prove its elements beyond a reasonable doubt.
3. The special mitigation statute is substantive legislation, and its burden-of-proof provision is inseparably connected to the substantive right it creates; therefore, the statute was constitutionally enacted by a simple legislative majority rather than the supermajority required for amendments to judicial procedural rules.
4. The statute does not violate federal equal protection or Utah's uniform-operation-of-laws provision because defendants asserting special mitigation are not similarly situated to defendants asserting imperfect self-defense.

KEY QUOTATIONS

“The legislature has wide latitude to recognize and define the affirmative defenses applicable under the Utah Code.” (483)

“The burden of proof associated with special mitigation is one of those instances.” (486)

“Given these distinctions, we conclude that a defendant arguing for special mitigation on the basis of mental illness is not similarly situated to a defendant who argues the affirmative defense of imperfect self-defense.” (489)

FACTUAL BACKGROUND

Drej was charged with murdering his brother, allegedly shooting him twenty-two times and then attacking him with a rifle and throwing his body down a stairwell. Drej reportedly told police that his brother was involved in a prostitution and organ-selling conspiracy and that Drej had acted in response to visions and delusional beliefs. After being found incompetent and later restored to competency, Drej sought to present special mitigation based on mental illness and delusion.

PROCEDURAL HISTORY

Drej was charged in Utah County with murder and a dangerous-weapon sentencing enhancement. After the district court found him incompetent and later determined that he had regained competency, he announced that he would assert insanity, diminished mental capacity, and special mitigation defenses. The district court rejected his argument that the prosecution had to disprove special mitigation beyond a reasonable doubt and denied his constitutional challenge. The Utah Supreme Court granted Drej's petition for interlocutory appeal, affirmed, and remanded for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The district court's decision was affirmed, and the case was remanded for further proceedings.

CASES CITED

- State v. Herrera, 895 P.2d 359 (Utah 1995)
- State v. Ross, 2007 UT 89, 174 P.3d 628
- Wood v. Univ. of Utah Med. Ctr., 2002 UT 134, 67 P.3d 436
- Patterson v. New York, 432 U.S. 197 (1977)
- United States v. Matthews, 545 F.3d 223 (2d Cir. 2008)
- United States v. Contreras, 536 F.3d 1167 (10th Cir. 2008)
- In re Winship, 397 U.S. 358 (1970)
- State v. Wood, 648 P.2d 71 (Utah 1982)
- State v. Low, 2008 UT 58, 192 P.3d 867
- State v. Swenson, 838 P.2d 1136 (Utah 1992)
- State v. Vacos, 40 Utah 169, 120 P. 497 (1911)
- State v. Miller, 2008 UT 61, 193 P.3d 92
- State v. Gallion, 572 P.2d 683 (Utah 1977)
- State v. Johnson, 44 Utah 18, 137 P. 632 (1913)
- State v. Gardiner, 814 P.2d 568 (Utah 1991)
- State v. Palmer, 2009 UT 55, 220 P.3d 1198
- Ring v. Arizona, 536 U.S. 584 (2002)
- Apprendi v. New Jersey, 530 U.S. 466 (2000)
- State v. Martinez, 2002 UT 80, 52 P.3d 1276
- United States v. Ransom, 942 F.2d 775 (10th Cir. 1991)
- State v. Jeffries, 2009 UT 57, 217 P.3d 265
- Jones v. United States, 526 U.S. 227 (1999)

- Ryan v. Gold Cross Servs., Inc., 903 P.2d 423 (Utah 1995)
- Brickyard Homeowners' Ass'n Mgmt. Comm. v. Gibbons Realty Co., 668 P.2d 535 (Utah 1983)
- Petty v. Clark, 113 Utah 205, 192 P.2d 589 (1948)
- Brown & Root Indus. Serv. v. Indus. Comm'n of Utah, 947 P.2d 671 (Utah 1997)
- Washington Nat'l Ins. Co. v. Sherwood Assocs., 795 P.2d 665 (Utah Ct. App. 1990)
- Salt Lake Child & Family Therapy Clinic, Inc. v. Frederick, 890 P.2d 1017 (Utah 1995)
- Shaps v. Provident Life & Accident Ins. Co., 826 So. 2d 250 (Fla. 2002)
- Sudwischer v. Estate of Hoffpauir, 705 So. 2d 724 (La. 1997)
- In re Estate of Reardon, 25 A.D.2d 370, 269 N.Y.S.2d 635 (1966)
- Things Remembered, Inc. v. Petrarca, 516 U.S. 124 (1995)
- Gallivan v. Walker, 2002 UT 89, 54 P.3d 1069
- Malan v. Lewis, 693 P.2d 661 (Utah 1984)
- Blue Cross & Blue Shield of Utah v. State Tax Comm'n, 779 P.2d 634 (Utah 1989)
- State v. Mohi, 901 P.2d 991 (Utah 1995)
- State v. Schofield, 2002 UT 132, 63 P.3d 667
- State v. Merrill, 2005 UT 34, 114 P.3d 585
- State v. Honie, 2002 UT 4, 57 P.3d 977
- Mountain Fuel Supply Co. v. Salt Lake City Corp., 752 P.2d 884 (Utah 1988)
- ABCO Enters. v. State Tax Comm'n, 2009 UT 36, 211 P.3d 382
- United States v. Virginia, 518 U.S. 515 (1996)
- Mullaney v. Wilbur, 421 U.S. 684 (1975)
- Smart v. Leeke, 873 F.2d 1558 (4th Cir. 1989)
- State Tax Comm'n v. Dep't of Finance, 576 P.2d 1297 (Utah 1978)
- Gold Cross Servs., Inc. v. Ryan, 903 P.2d 423 (Utah 1995)

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