

SUPREME COURT OF NEW JERSEY

State v. DeShaun P. Wilson

227 N.J. 534 (2017) · No. 076609; A-42-15 · Decided January 19, 2017

SUMMARY

The Supreme Court of New Jersey held that a governmental map prepared and adopted under N.J.S.A. 2C:35-7.1(e) is nontestimonial, so its admission does not violate the Confrontation Clause. The map is hearsay but may be admissible as a public record or under the statute if properly authenticated. Because the State failed to provide adequate authentication, the court reversed the conviction on the drug-free-zone count and remanded for a new trial on that count.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Solomon; Chief Justice Rabner; Justice LaVecchia; Justice Albin; Justice Patterson; Justice Fernandez-Vina; Justice Timpone
JURISDICTION	New Jersey
DECIDED	January 19, 2017
DOCKET	076609; A-42-15
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	On certification from the New Jersey Superior Court, Appellate Division, after affirmance of defendant's convictions. The Supreme Court granted certification limited to whether admission of a map used to establish that the offense occurred within 500 feet of a public park violated defendant's confrontation rights.
STANDARD OF REVIEW	The legal question whether admission of the map violated the Confrontation Clause was reviewed de novo. The evidentiary authentication and admissibility issue was analyzed under the New Jersey Rules of Evidence and N.J.S.A. 2C:35-7.1(e).
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	DeShaun P. Wilson v. State of New Jersey

TOPICS

- sixth amendment
- criminal procedure
- hearsay
- authentication
- evidence

PRACTICE AREAS

criminal procedure

evidence

constitutional law

statutory interpretation

QUESTIONS PRESENTED

1. Whether Wilson timely and adequately preserved his Confrontation Clause objection to admission of the map.
2. Whether a governmental map prepared and adopted under N.J.S.A. 2C:35-7.1(e) is testimonial under the Sixth Amendment and analogous New Jersey constitutional provision.
3. Whether the map was admissible under N.J.S.A. 2C:35-7.1(e) or the public-records exception to hearsay without testimony from a witness qualified to authenticate the map and explain its methodology and margin of error.
4. Whether the State presented competent evidence of the essential 500-foot-location element of N.J.S.A. 2C:35-7.1(a).

HOLDINGS

1. Wilson timely and adequately preserved his Confrontation Clause challenge by objecting when the State sought admission of the map and asserting that the foundation and testimony concerning the map were inadequate; he was not required to use the words 'Confrontation Clause,' 'Sixth Amendment,' or 'Crawford.'
2. A map commissioned and adopted by a governmental entity under N.J.S.A. 2C:35-7.1(e) is nontestimonial because it reports an objective, present geographic measurement, does not require independent interpretation of raw data, was not created in response to a particular criminal event, and does not target a particular defendant.
3. The map was hearsay and could be admitted under N.J.R.E. 803(c)(8) or N.J.S.A. 2C:35-7.1(e) only upon proper authentication. Proper authentication required a witness able to testify to the map's authenticity and be cross-examined about the methodology used to create it and its margin of error.
4. Because the map was the State's sole evidence that the alleged drug transaction occurred within 500 feet of Leggett Park and it was inadmissible for lack of proper authentication, the State failed to prove an essential element of the N.J.S.A. 2C:35-7.1(a) offense.

KEY QUOTATIONS

“The Confrontation Clause affords a procedural guarantee that the reliability of evidence will be tested “in a particular manner” through “the crucible of cross-examination.”” (at 12)

“The map is the raw data.” (at 21)

“Proper authentication of the map required a witness who could testify to its authenticity and be cross-examined on the methodology of the map’s creation and its margin of error.” (at 24)

FACTUAL BACKGROUND

Elizabeth police detectives observed Wilson engage in the apparent sale of crack cocaine near Leggett Park, a public park. Wilson was charged with drug offenses, including possession with intent to distribute within 500 feet of a public park under N.J.S.A. 2C:35-7.1(a). The State relied on a county drug-free-zone map, an assistant prosecutor's affidavit, and a county resolution to establish the 500-foot location, but the detective who testified did not create the map, take its measurements, or independently verify its accuracy.

PROCEDURAL HISTORY

Wilson was tried twice in the Union County Superior Court after the first jury failed to reach a unanimous verdict. At the second trial, the court admitted a county drug-free-zone map and related documents, and the jury convicted Wilson of all charges. The Appellate Division affirmed, holding that the map was nontestimonial and admissible. The Supreme Court reversed the judgment as to count three because the map was not properly authenticated and remanded for a new trial on that count.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Appellate Division's judgment affirming Wilson's conviction on count three, which charged violation of N.J.S.A. 2C:35-7.1(a), and remand for a new trial on that charge and further proceedings consistent with the opinion. At retrial, the State may use the authorized notice-and-demand procedure; a timely objection requires production of a properly qualified authenticating witness.

CASES CITED

- Crawford v. Washington, 541 U.S. 36 (2004)
- Davis v. Washington, 547 U.S. 813 (2006)
- Michigan v. Bryant, 562 U.S. 344 (2011)
- Ohio v. Clark, 576 U.S. ___, 135 S. Ct. 2173 (2015)
- State v. Michaels, 219 N.J. 1 (2014), cert. denied, ___ U.S. ___, 135 S. Ct. 761 (2014)
- State v. Bass, 224 N.J. 285 (2016)
- State v. Chun, 194 N.J. 54 (2008), cert. denied, 555 U.S. 825 (2008)
- State v. Roach, 219 N.J. 58 (2014), cert. denied, 135 S. Ct. 2348 (2015)
- State v. Sweet, 195 N.J. 357 (2008), cert. denied, 557 U.S. 934 (2009)
- Bullcoming v. New Mexico, 564 U.S. 647 (2011)
- Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009)
- State ex rel. J.A., 195 N.J. 324 (2008)
- State v. Williams, 219 N.J. 89 (2014), cert. denied, 135 S. Ct. 1537 (2015)
- State v. T.J.M., 220 N.J. 220 (2015)
- State v. Nunez, 436 N.J. Super. 70 (App. Div. 2014)

- State v. Jones, 224 N.J. 70 (2016)
- State v. Simbara, 175 N.J. 37 (2002)
- State v. Wilson, 442 N.J. Super. 224 (App. Div. 2015)
- State v. Wilson, 224 N.J. 119 (2016)

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