

SUPREME COURT OF ARKANSAS

Michael Shane Jolly v. State of Arkansas

358 Ark. 180 (Ark. 2004) · No. CR 03-1217 · Decided June 24, 2004

SUMMARY

The Supreme Court of Arkansas held, for the first time in the state, that the Sixth Amendment right to a speedy trial encompasses a right to speedy sentencing. Applying the Barker v. Wingo factors, the court concluded that the nearly six-year delay between the defendant's guilty plea and sentencing violated that right. The court vacated the sentence and ordered Jolly released from custody.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Tom Glaze; Dickey, C.J.; Hannah, J.
JURISDICTION	Arkansas
DECIDED	June 24, 2004
DOCKET	CR 03-1217
DISPOSITION	vacated
PROCEDURAL POSTURE	Jolly appealed from the Saline County Circuit Court's denial of his motion to dismiss the State's request for sentencing and from the resulting sentence imposed nearly six years after his guilty plea.
STANDARD OF REVIEW	The court applied the Barker v. Wingo balancing test to determine whether the delay violated the Sixth Amendment right to a speedy sentencing, considering the length of delay, reason for delay, assertion of the right, and prejudice.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Michael Shane Jolly v. State of Arkansas

TOPICS

- speedy trial
- sentencing
- criminal procedure
- sixth amendment
- remedies

PRACTICE AREAS

- criminal procedure
- constitutional law
- sentencing
- remedies

QUESTIONS PRESENTED

1. Whether the Sixth Amendment right to a speedy trial encompasses a right to speedy sentencing after a defendant has pleaded guilty.
2. Whether the nearly six-year delay between Jolly's guilty plea and sentencing violated that right under the *Barker v. Wingo* factors.
3. What remedy is appropriate for an unconstitutional delay in sentencing.

HOLDINGS

1. The Sixth Amendment right to a speedy trial encompasses a criminal defendant's right to speedy sentencing.
2. The State's nearly six-year delay in sentencing Jolly violated his Sixth Amendment right to speedy sentencing.
3. The proper remedy for denial of the right to speedy sentencing is to vacate the sentence and release the defendant from custody.

KEY QUOTATIONS

“As have so many of our sister states that have been confronted with this same constitutional issue, we conclude that the right to a speedy sentence is encompassed within the Sixth Amendment right to a speedy trial.” (at 45)

“This prejudice, when considered along with the other three factors, compels a conclusion that Jolly's Sixth Amendment right to a speedy sentencing was violated by the State in this case.” (at 48)

“When the issue is the denial of a defendant's right to a speedy sentencing, the proper remedy is to vacate the sentence and release the defendant from custody.” (at 49)

FACTUAL BACKGROUND

Jolly pleaded guilty to rape on October 27, 1997, when he was nineteen years old, and remained on bond pending preparation of a presentence report. Sentencing was set for January 20, 1998, continued, and then effectively abandoned until the prosecutor discovered the omission while reviewing old files in February 2003. Jolly remained in the community and did not abscond; he testified that he had been waiting for the State to complete the matter. The circuit court sentenced him on August 15, 2003, to 144 months in prison with another 144 months suspended.

PROCEDURAL HISTORY

Jolly pleaded guilty to rape on October 27, 1997, and the circuit court ordered a presentence report. Although sentencing was initially set for January 20, 1998, it did not occur. After the omission was discovered in 2003, the State sought a show-cause order and sentencing. The circuit court denied Jolly's motion to dismiss, sentenced him to 144 months' imprisonment with an additional 144 months suspended, and Jolly timely appealed. The Supreme Court of Arkansas had previously denied Jolly's petition for a writ of prohibition.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The judgment sentencing Jolly to 144 months' imprisonment with an additional 144 months suspended was vacated, and Jolly was to be released from custody.

CASES CITED

- Smith v. Hooey, 393 U.S. 374 (1969)
- United States v. Ewell, 383 U.S. 116 (1966)
- Barker v. Wingo, 407 U.S. 514 (1972)
- Gardner v. State, 252 Ark. 828, 481 S.W.2d 342 (1972)
- Pollard v. United States, 352 U.S. 354 (1957)
- United States v. Gibson, 353 F.3d 21 (D.C. Cir. 2003)
- United States v. Martinez, 837 F.2d 861 (9th Cir. 1988)
- Burkett v. Cunningham, 826 F.2d 1208 (3d Cir. 1987)
- Perez v. Sullivan, 793 F.2d 249 (10th Cir. 1986)
- United States v. Campisi, 583 F.2d 692 (3d Cir. 1978)
- United States v. Reese, 568 F.2d 1246 (6th Cir. 1977)
- United States v. Campbell, 531 F.2d 1333 (5th Cir. 1976)
- United States v. Tortorello, 391 F.2d 587 (2d Cir. 1968)
- Doggett v. United States, 505 U.S. 647 (1992)
- Birmingham v. State, 346 Ark. 78, 57 S.W.3d 118 (2001)
- Zangerl v. State, 352 Ark. 278, 100 S.W.3d 695 (2003)
- Nelson v. State, 350 Ark. 311, 86 S.W.3d 909 (2002)
- Jones v. State, 329 Ark. 603, 951 S.W.2d 308 (1997)
- Moore v. Arizona, 414 U.S. 25 (1973)
- United States v. Marion, 404 U.S. 307 (1971)
- Strunk v. United States, 412 U.S. 434 (1973)
- Trotter v. State, 554 So. 2d 313 (Miss. 1989)
- Juarez-Casares v. United States, 496 F.2d 190 (5th Cir. 1974)
- United States v. Yelverton, 197 F.3d 531 (D.C. Cir. 1999)