

Supreme Court of the State of Washington

Opinion Information Sheet

Docket Number: 80061-8

Title of Case: State v. Weyrich

File Date: 05/08/2008

Oral Argument Date:

SOURCE OF APPEAL

Appeal from King County Superior Court

04-1-09829-3

Honorable Theresa B Doyle

JUSTICES

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

State of Washington,

NO. 80061-8

Respondent,

v.

EN BANC

StephAn Matthew Weyrich,

Petitioner.

Filed: May 8, 2008

PER CURIAM -- Stephan Weyrich seeks review of a per curiam Court of

Appeals opinion affirming his convictions and sentence for theft and unlawful

issuance of a bank check. Weyrich argues that he was misinformed of a direct

consequence of his plea -- the statutory maximum he faced for his theft

convictions -- and that the trial court therefore wrongly denied his motion to withdraw

his guilty pleas. We agree and reverse the Court of Appeals.

FACTS

At trial, Weyrich entered an Alford1 plea to three counts of first degree

theft. He also entered a guilty plea on the unlawful check issuance charge. Two

separate statements of defendant on plea of guilty advised Weyrich that the maximum

1 North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

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sentence for each crime, respectively, was 5 years. His judgment and sentence also

notes the maximum sentence as 5 years for each crime. In fact, the maximum

sentence for unlawful issuance is 5 years, but the maximum sentence for theft is 10

years. Despite the mistake, Weyrich was sentenced on both crimes within the correct

standard range.

Prior to his sentencing hearing, Weyrich moved to withdraw his pleas,

arguing that he had been misinformed about the possible sentence he faced and that

his pleas were therefore not knowingly, voluntarily, and intelligently made. The trial

court denied his motion. Before the Court of Appeals, the State conceded that the prosecutor mistakenly relayed an incorrect maximum sentence to Weyrich and that the mistake was repeated on the plea form and the judgment and sentence. The State argued in part, however, that because the trial court sentenced Weyrich within the correct standard range, the mistaken maximum sentence had no actual bearing on the plea. The Court of Appeals held that Weyrich failed to demonstrate a manifest injustice warranting withdrawal of the pleas.² *State v. Weyrich*, noted at 137 Wn. App. 1011 (2007).

ANALYSIS

Due process requires that a defendant's guilty plea be knowing, voluntary, and intelligent. *State v. Mendoza*, 157 Wn.2d 582, 587, 141 P.3d 49 (2006); CrR 4.2(d) (2005). A defendant must be informed of the statutory maximum for a charged crime, as this is a direct consequence of his guilty plea. See CrR 4.2(g), no. 6(a). A

defendant may challenge the voluntariness of his plea where he is misinformed of the

2 Weyrich and the State agree that although the misstatement concerning the statutory maximum relates only to the theft crimes, because the pleas to the thefts and the unlawful issuance charge were part of a package deal, if Weyrich prevails on this claim both pleas would have to be withdrawn.

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sentencing consequences. *Mendoza*, 157 Wn.2d at 587-91. The defendant need not establish a causal link between the misinformation and his decision to plead guilty. *Id.* at 590; *In re Pers. Restraint of Isadore*, 151 Wn.2d 294, 302, 88 P.3d 390 (2004).

The State concedes that Weyrich was misinformed that the statutory maximum for the theft crimes was 5 years, rather than the correct 10 years. See RCW 9A.20.021(1)(b); RCW 9A.56.030(2). Weyrich did not waive the error but timely moved to withdraw his pleas before sentencing. See *Mendoza*, 157 Wn.2d at 591-92.

The State's argument that the error did not actually affect Weyrich's decision to plead

guilty requires the sort of subjective hindsight inquiry into Weyrich's decision of

which Mendoza and Isadore disapprove. "Accordingly, we adhere to our precedent

establishing that a guilty plea may be deemed involuntary when based on

misinformation regarding a direct consequence [of] the plea" *Id.* at 591.

CONCLUSION

Because Weyrich was misinformed that the statutory maximum sentence

for the thefts was 5 years, he should have been allowed to withdraw his pleas. We

reverse the Court of Appeals and remand to the trial court for further proceedings

consistent with this opinion.