Summaries of Published Opinions

January 8, 2018

2018 CO 1. No. 16SC303. Department of Revenue, Division of Motor Vehicles v. Rowland. *Evidence—Revocation of License—Evidence of Sobriety Tests.*

In this case, the Supreme Court considered whether CRS § 42-2-126(8)(c) requires all written statements from non-law enforcement sources to be presented in affidavit form and sworn to under penalty of perjury before they can be considered as evidence in driver's license revocation hearings. CRS § 42-2-126(8)(c) provides that, in driver's license revocation proceedings, a hearing officer "may consider evidence contained in affidavits from persons other than the respondent," so long as those affidavits meet certain requirements, including the requirement that the affidavits be sworn to under penalty of perjury. The Supreme Court held that CRS § 42-2-126(8)(c) does not require all written statements from non-law enforcement sources to be presented in affidavit form and sworn to under penalty of perjury before they can be considered as evidence in driver's license revocation hearings.

Specifically, the Court held that the blood alcohol content test report in this case did not have to meet the affidavit requirements of CRS § 42-2-126(8)(c) for the hearing officer to consider its contents. Accordingly, the Court reversed the judgment of the Court of Appeals.

January 16, 2018

2018 CO 2. No. 17SA159. People v. Fields; No. 17SA176. People v. Reed. *Contact-Short-of-a-Stop—Reasonable Articulable Suspicion—Probable Cause—Inevitable Discovery.*

The People brought interlocutory appeals, as authorized by CRS § 16-12-102(2) and C.A.R. 4.1, from the district court's orders suppressing contraband and statements in the related prosecutions of defendants Fields and Reed. The district court found that the initial contact with both defendants in a parked car constituted an investigatory stop for which the police lacked reasonable articulable suspicion, and it suppressed all evidence acquired after the point of initial contact as the fruit of an unlawful stop.

The Supreme Court reversed the district court's suppression orders and remanded the case for further proceedings. The Court held that the district court failed to appreciate that the officers' initial contact with defendants fell short of a stop. By the point at which the contact progressed to a seizure within the contemplation of the Fourth Amendment, the officers had acquired the requisite reasonable articulable suspicion, and subsequently probable cause, to justify their investigative conduct, or inevitably would have lawfully arrested defendants and discovered the contraband.

January 22, 2018

2018 CO 3. No. 16SC112. Norton v. Rocky Mountain Planned Parenthood, Inc. *Constitutional Law—Colo. Const. Art. V, § 50—Motion to Dismiss.*

In this case, the Supreme Court considered whether petitioner's complaint alleged a violation of article V, section 50 of the Colorado Constitution sufficient to overcome a motion to dismiss. The Court held that to state a claim for relief under section 50, a complaint must allege that the state made a payment to a person or entity—whether directly to that person or entity, or indirectly through an intermediary—for the purpose of compensating them for performing an abortion and that such an abortion was actually performed. Because petitioner's complaint did not allege that the state made such a payment, the complaint failed to state a claim for relief under CRCP 12(b)(5). Accordingly, the Court affirmed the judgment of the Court of Appeals.

2018 CO 4. No. 13SC1017. People v. Bueno. *Motion for New Trial—Evidence.*

In this case, the Supreme Court considered two questions. The first is whether a Crim. P. 33(c) motion for a new trial is time-barred because it was filed more than one year after the defendant's conviction, and thus arguably more than one year after "entry of judgment." The second is whether the trial court erred in granting a new trial after concluding that the prosecution violated *Brady v. Maryland*, 373 U.S. 83 (1963), by failing to provide to the defense evidence that the prosecution had obtained at the outset of the investigation until after defendant's conviction. The Court held that "entry of judgment," for the purposes of Rule 33(c), does not occur until both a verdict or finding of guilt and the imposition of a sentence. The Court concluded that, applying *Brady*'s disclosure requirements, the trial court did not abuse its discretion in granting a motion for a new trial.

2018 CO 5. No. 15SC448. People v. Griego. *Attempted Recklessness—Attempted Reckless Manslaughter—Equal Protection.*

In this case, the Supreme Court considered whether the requirement in the attempted reckless manslaughter and attempted second degree assault statutes that a defendant place "another person" at risk of death or serious bodily injury necessitates that an actual, discernible person be placed at risk, or whether "another person" can refer to the public at large. The Court concluded that the statutes at issue require a showing of a risk to an actual, discernible person and that a risk to the public at large is insufficient. Here, because the People presented no evidence that defendant's actions put any particular person at risk, the Court affirmed the Court of Appeals' judgment reversing his convictions.

January 29, 2018

2018 CO 6. No. 16SC637. Coloradans for a Better Future v. Campaign Integrity Watchdog. *Election Law—Disclosure.*

A lawyer filed a report for Coloradans for a Better Future (Better Future), a political organization, without charging a fee. The Supreme Court reversed the Court of Appeals' determination that Better Future was required to report the donated legal service as a "contribution" under Colorado's campaign-finance laws. The constitutional definition of "contribution" does not address political organizations, and neither part of the statutory definition relied on by the Court of Appeals covers legal services donated to political organizations. CRS § 1-45-103(6)(b) does not apply to political organizations, and the word "gift" in CRS § 1-45-103(6)(c)(I) does not include gifts of service.

2018 CO 7. No. 17SC149. Campaign Integrity Watchdog v. Alliance for a Safe and Independent Woodmen Hills. *Election Law—Constitutional Law—Political Speech.*

The Supreme Court held that a political committee must report payments to a law firm for its legal defense as contributions, but not as expenditures. "[E]xpenditures . . . and obligations" under CRS § 1-45-108(1)(a)(I) are limited to payments and obligations for expressly advocating the election or defeat of a candidate; payments for legal defense are not for express electoral advocacy. But, pursuant to Colo. Const. art. XXVIII, § 2(5)(a)(II), payments to a third-party law firm for a political committee's legal defense count as reportable contributions because they are payments "made to a third party for the benefit of any . . . political committee."

The Court reversed the administrative law judge's determination that the contribution-reporting requirement is unconstitutional as applied to Alliance for a Safe and Independent Woodmen Hills (Alliance). Under *Buckley v. Valeo*, 424 U.S. 1, 61–68 (1976), for political committees like Alliance whose major purpose is influencing elections, the governmental interests in political transparency and preventing corruption justify the First Amendment burdens of reporting and disclosure. It makes little difference that the payments here were made post-election and for legal defense; elections are cyclical and money is fungible. CL

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