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Digest: People v. Nguyen

Meagan S. Tom

Opinion by Baxter, J. with George, C.J., Werdegard, J., Chin, J., Moreno, J. and Corrigan, J. concurring. Dissenting Opinion by Kennard, J.

Issue

Does the United States Constitution allow the use of prior juvenile adjudication to increase sentences under the Three Strikes law even though there is no right to a jury trial in juvenile proceedings?

Facts

In an amended complaint, defendant Vince Vinhtuang Nguyen was charged in December 2004 with four felony counts.¹ For sentencing purposes, the amended complaint also alleged that the defendant had a qualifying “prior felony conviction” under the Three Strikes Law, a 1999 juvenile adjudication for assault with a deadly weapon.²

Defendant pled no contest to one felony, possession of a firearm by an ex-felon, and a misdemeanor, possession of a billy³ on March 2005 pursuant to a plea agreement.⁴ Defendant had also waived his statutory right to a jury trial to determine whether he had suffered a qualifying prior felony conviction, *i.e.* the 1999 juvenile adjudication.⁵ The trial court decided that the strike allegation was true based upon documentary evidence and noted that the court file regarding the 1999 juvenile matter indicated that defendant admitted to the violation.⁶

¹ *People v. Nguyen*, 209 P.3d 946, 949 (Cal. 2009). Defendant was charged with of possession of a firearm by an ex-felon, possession of ammunition by an ex-felon, possession of a billy, and possession of methamphetamine. *Id.* Defendant was also charged with two misdemeanors: being under the influence of a controlled substance and possession drug paraphernalia. *Id.*

² *Id.*

³ Possession of a billy could be charged and/or convicted as either a felony or a misdemeanor. *Id.* at n.3.

⁴ *Id.* at 949. In exchange for the guilty plea, the other counts were dismissed. *Id.*

⁵ *Id.*

⁶ *Id.*

Defendant objected to the trial court's use of the prior juvenile proceeding as a strike in the current case, in violation of his Sixth Amendment rights, since the juvenile adjudication had no right to a jury trial.⁷ The trial court rejected this argument and sentenced defendant to 16 months for the firearm possession conviction, doubled to 32 months based upon the previous qualifying strike.⁸

Defendant appealed, raising the Sixth Amendment sentencing issue. In the first opinion, the Court of Appeal upheld the trial court's sentence, stating that while the Sixth amendment forbids the use of contested juvenile adjudications for enhanced sentencing in a subsequent adult offense, since the defendant had admitted that he had committed the violation in the juvenile case, the current sentence was not affected by the lack of a jury trial.⁹ On rehearing, the Court of Appeal reversed, stating that since minors tried for criminal offenses have no right to jury trial, "the use of *any* juvenile adjudications as prior convictions to enhance subsequent adult sentences is prohibited by the Sixth Amendment."¹⁰ The Supreme Court of California granted review.

Analysis

The United States Supreme Court has established that an adult criminal defendant has a general right under the Fifth, Sixth, and Fourteenth Amendments, to a jury trial finding beyond a reasonable doubt of any fact that increases the sentence for a felony conviction that goes beyond the maximum term permitted by conviction of the charged offense alone.¹¹ *Apprendi* found that the Sixth Amendment adopted the common law tradition that any fact that is crucial to the maximum punishment for an offense is considered an "element" of the offense and subject to the same requirements of proof beyond reasonable doubt and a jury trial.¹²

Under California's Three Strikes Law,¹³ the complaint against a defendant can, for the purposes of sentencing enhancement, charge that defendant had previously had a

⁷ *Id.*

⁸ *Id.* at 949–50.

⁹ *Id.* at 950.

¹⁰ *Id.* (emphasis in original).

¹¹ *Id.* at 947 (citing *Apprendi v. New Jersey*, 530 U.S. 466 (2000); *Oregon v. Ice* 129 S.Ct. 711 (2009); *Cunningham v. California*, 549 U.S. 270 (2007); *Blakely v. Washington*, 542 U.S. 296 (2004)).

¹² *Id.* (citing *Apprendi*).

¹³ CAL. PENAL CODE §§ 667(b)–(i), 1170.12(a)–(d) (West 2009).

juvenile adjudication qualifying as a prior felony conviction.¹⁴ The Three Strikes Law statutorily affords an adult criminal defendant the right to a jury trial whether he or she has suffered an alleged conviction.¹⁵ Here, Defendant had waived his right to a jury trial regarding the alleged conviction and the trial court determined he had suffered a qualifying conviction based upon documentary evidence.¹⁶ Under *Apprendi*, any fact “that allows enhancement of an adult defendant’s maximum sentence for the current offense must, unless the defendant waives his jury-trial right, be determined by a jury in the current case.”¹⁷ The court found that the statutory process under the Three Strikes Law complies with the *Apprendi* rule.¹⁸

However, defendant argued that he qualifies for the prior conviction exception¹⁹ under the *Apprendi* rule, stating that regardless of the jury trial rights in the current case, the lack of jury trial in the juvenile proceeding excludes all use of the resulting adjudication to enhance sentencing in the current case.²⁰ The court rejected this argument, stating that *Apprendi* does not preclude the sentence-enhancing use of a prior valid, fair, and reliable adjudication against an adult felon, because the defendants had all the constitutional protections afforded, even though it does not include the right to jury trial in previous juvenile adjudication.²¹ The court found it logically incompatible to conclude that a constitutionally decided juvenile adjudication that justified confinement of a juvenile, would be considered “constitutionally inadequate” when used at a later date to

¹⁴ People v. Nguyen, 209 P.3d 946, 948 (Cal. 2009).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 950 (emphasis in original).

¹⁸ *Id.* at 951.

¹⁹ The prior conviction exception arose out of a pre-*Apprendi* case, *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). *Id.* In *Almendarez-Torres*, the court found that the Constitution did not require treatment of prior convictions as an element of the current criminal offense and therefore did not need to be proved beyond a reasonable doubt. *Id.* (citation omitted).

²⁰ *Id.*

²¹ *Id.* at 953. The United States Supreme Court has previously held that minor criminal defendants, who may be confined in a correctional institution are constitutionally entitled to nearly all the same procedural rights and protections as adult criminal defendants, except for the right to a jury trial. *Id.* (citations omitted). The Court discusses *McKeiver v. Pennsylvania*, the 1971 United States Supreme Court decision which found that there was no constitutional jury trial right in juvenile proceedings, stating that it reflected the concern that the introduction of juries would interfere too greatly with the effort to deal with youthful offenders in a less formal and adversarial setting, echoing society's preference for protective and rehabilitative proceedings instead. *Id.* at 956 (citing *McKeiver v. Pennsylvania*, 403 U.S. 528, 545–51 (1971)).

establish an individual's recidivism in order to enhance adult offense sentencing.²²

The court further stated that all California Court of Appeal panels have previously held that the issue of juvenile convictions being used to enhance sentencing for adult offenses does not violate the Fifth, Sixth, and Fourteenth Amendments, even though there is no jury trial right.²³ Since the juvenile adjudication is being used to show the recidivism of the now adult defendant the court found that it was a highly rational basis for enhancing an adult's sentence.²⁴ The court stated that recidivism after the juvenile adjudication was even more compelling reason for enhancing sentencing, since he had been previously found to have committed criminal conduct and did not reform, despite the state's previous interventions.²⁵

The court also pointed out that the majority of federal decisions and other states' decisions have also reached a similar conclusion after the *Apprendi* decision, determining that nonjury juvenile adjudications can be used to enhance later adult sentences, and its' ruling is consistent with these other decisions.²⁶

Holding

The court held that the use of prior juvenile adjudication to increase a defendant's sentence under the Three Strikes law does not violate the right to a jury trial.²⁷

Dissent

Justice Kennard agreed with the majority that under California's Three Strikes law that the existence of a prior juvenile court adjudication of criminal conduct triggers increased punishment.²⁸ However, Justice Kennard interpreted *Apprendi* to extend not only to the "fact" of the existence of a prior adjudication, but also requiring a jury trial on the conduct that led to that adjudication.²⁹ Justice Kennard argued that the majority's reasoning would "open[] the door to wholesale evasion or trivialization of the holding in *Apprendi*"³⁰ and allow for

²² *Id.* at 955.

²³ *Id.* at 954.

²⁴ *Id.* at 956.

²⁵ *Id.* at 957.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 961.

²⁹ *Id.*

³⁰ *Id.* at 962.

legislation to be enacted defining any sentence-increasing circumstance for the current offence in terms of prior court determinations or adjudication.³¹ Under this situation, a judge, not a jury, would determine if a specific aggravating circumstance had occurred, after which a jury would determine if a trial judge had actually made that specific factual determination; this was not the United States Supreme Court's intention in *Apprendi*.³²

Justice Kennard also felt the decision of the court conflicted with its' recent decision in *People v. Towne*, where it was held that a defendant's sentence may not be increased based on a prior determination, in a nonjury revocation proceeding, of a probation or parole violation.³³ The implied view in *Towne*, according to Justice Kennard, is that the constitutional right to a jury trial extends to both the conduct leading to the nonjury adjudication, not only the existence of it.³⁴

Justice Kennard also found that the lack of the right to a jury trial in juvenile proceedings, which the majority reasons could be constitutionally used in sentencing because they have been "reliably adjudicated in proceedings that included . . . every substantial safeguard . . . *except* the right to jury trial"³⁵ troubling. It is the problem of having the facts of a juvenile court adjudication being determined by "a single employee of the state"³⁶ rather than abiding by "the system envisioned by a Constitution that guarantees *trial by jury*."³⁷

Legal Significance

This ruling places California with the majority of other states and federal decisions, finding that juvenile adjudication could be used to enhance adult sentencing despite the denial of a right to a jury trial during the juvenile adjudication. This ruling further affirms and situates the *Apprendi* rule within the current sentencing practices of the Three Strikes Law. *Nguyen* also clarifies that in regards to sentencing, the right to a jury trial when determining an aggravating factors is required unless the defendant waives that right.

³¹ *Id.*

³² *Id.*

³³ *Id.* (summarizing *People v. Towne*, 44 Cal.4th 63 (Cal. 2008)).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* (citing *Apprendi*).

³⁷ *Id.* (citing *Apprendi*) (emphasis added by Kennard, J.).

