Brief the of state v. stark

Law

Brief The Case Of State V. Stark

History

Calvin Stark was convicted within the Superior Court, Clallam County Washington, of two Counts of second-degree dishonor for intentionally disclosing his intimate partner to the HIV (Human Immunodeficiency virus), and he appealed. The Washington Court of Appeals asserted and remitted the case for commutation.

Facts

On March 25, 1988 Calvin Edward Stark hereafter " Defendant" was tested to be positive for HIV, which was substantiated by further testing initially on June 25 and then again on June 30, 1988. During the period from June 30, 1988 to October 3, 1989, the Clallam County Health Department's staff met five times with the defendant, during which the defendant went through broad guidance about his infection. He was instructed regarding safe sex, the danger of dispersing the infection and the need of letting his partners know about his disease prior to engaging in sexual practice with them. The Clallam County Health Officer, Dr. Locke on October 3, 1989, after discovering that the defendant has neglected his advise and was engaging in unprotected sexual practice, issued a cease and desist order as approved by RCW 70. 24. 024(3)(b). But the defendant did not cease and desist and Dr. Locke on March 1, 1990, went to the prosecuting officer's office aiming to look for the prosecutor's assistance, consistent to RCW 70. 24. 034(1), in getting juridical enforcement of the " cease and desist order". Stark was then charged by the State with three assault counts in the second degree under RCW 9A. 36. 021 (1) (e). RCW 9A. 36. 021 (1) (e).

At the panel trial, in count one, the victim attested to her sexual relationship

with Stark and the panel received deposition testimony of Dr. Locke concerning the contacts of Health Departments with Stark. In the bench trial, Dr. Locke testified but it was not testified by Stark. In front of the bench trial, the State demonstrated testimony of one of neighborhood friends of Stark. She attested that Stark on one night, after drinking, visited her apartment and let her know about his state of being HIV positive. Upon asking about the need of protecting oneself, Stark denied the need and also asserted his desire of spreading the infection to others. The jury thus established Stark to be guilty on count one.

Stark was then found guilty of the second as well as third counts by second trial judge at a bench trial. Stark was rendered an extraordinary sentence of 120 months on count one, due to the being a danger towards the community in future. While the usual range for such offense was between 13 to 17 months. On the other hand, Stark, on counts two and three, was rendered the lower end of the usual range i. e., 43 months each, to be assisted at the same time but sequentially to count one (Samaha 10).

Part b

Stark attempted review of the Superior Court’s judgment for Washington’s Clallam County that made him a convict of three counts of second-degree assault and that, later in count one the judgment of guilty, enforced a sentence that surpassed the standard range.

Part c

Court’s Decision

The court asserted defendant's condemnations for three counts of second-degree assault, but remitted the case for commutation on count one.

Part d

Standard on which Case Relied

Stark elicits a number of matters in his pro se brief. Initially, he argues that the State had been unsuccessful to charge him properly [*438] with assault due to particular statutory prohibitions pre-empt universal ones. More particularly, he contests that RCW 70. 24 displaced the more common provisions of RCW 9A. 36. 021 (1) (e).

Secondly, Stark contests that the court strayed in viewing evidence that came from rigid confidence since it was confined by the physician-patient privilege. Dr. Locke, as mentioned above, did not dishonor the privilege as [***24] he appropriately attempted the enforcement of the cease and desist order from the prosecuting officer. The psychologist-patient privilege is relevant " only 'so far as practicable' in criminal cases." State v. Mark, 23 Wn. App. 392, 396, 597 P. 2d 406 (1979). It is statutory, legal, not of constitutional order of magnitude. State v. Boehme, 71 Wn. 2d 621, 634, 430 P. 2d 527 (1967), cert. denied, 390 U. S. 1013 (1968); RCW 5. 60. 060(4). Practical application of the privilege necessitates a harmony of the gains of the privilege versus the public concern of full disclosure of the facts. Petersen v. State, 100 Wn. 2d 421, 429, 671 P. 2d 230 (1983) (Dickson 20).

Lastly, Stark contests that the State consecrated an ex post facto frailty by utilizing confidential information to accuse him with assault. Stark confesses that if the public prosecutor had suitably complied with the statutory guidelines then an ex post facto infirmity would not have been established. Moreover, he contends that the employment of confidential information by the prosecuting officer, in order to assure a conviction made such an infirmity. Stark seems to be contending that since the Legislature provided him an enthroned right in the privacy of his HIV status, [***25] the [*439]

use of information by the prosecutor to accuse him criminally eliminated that right, thus creating [**118] an ex post facto loss. As mentioned above, the prosecutor officer did not surpass his authority in depending on Stark's or else confidential information concerning his HIV status.

Work Cited

Samaha, J. Criminal law. 9th. Belmont, Ca: Cengage Learning, Inc, 2008. Print.

Dickson, D. HIV, AIDS, and the law: legal issues for social work practice and policy. Hawthrone, New York: A division of Walter de Gruyter, Inc, 2001. Print.