

SUPREME COURT

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Cases decided May 9, 2024.

State of Oregon v. Gene Raymond Satter, (CC 09P50867; 20CR42984; 20CR45176) (CA A175001 (Control); A175002; A175003) (SC S069880)

On review from the Court of Appeals (order denying reconsideration, Erin C. Lagesen, Chief Judge (Sept 7, 2022) and order of dismissal, Theresa M. Kidd, Appellate Commissioner (July 8, 2022)), in an appeal from the Polk County Circuit Court, Diane M. Morse, Judge. The order of the Court of Appeals is reversed, and the case is remanded to the Court of Appeals for further proceedings. Opinion of the Court by Chief Justice Meagan A. Flynn. Justice Stephen K. Bushong did not participate in the consideration or decision of this case. Senior Judge Lynn R. Nakamoto, Justice pro tempore, participated in the consideration and decision of this case.

Under the "former fugitive doctrine," the Court of Appeals relies on its inherent authority to dismiss a criminal defendant's appeal when the defendant had a previous flight from justice that may prejudice the state in the event of a retrial. Today, the Oregon Supreme Court unanimously held that the Court of Appeals erred by dismissing a defendant's direct appeal under that doctrine because prejudice to the state that will arise only on remand lacks the kind of connection to the appellate process that would justify an appellate court refusing to consider the defendant's appeal.

After a jury found defendant guilty of driving under the influence of intoxicants, defendant fled the state, which delayed sentencing by more than ten years. After sentencing, defendant appealed his conviction, asserting that the trial court had erred by failing to provide a particular jury instruction and that, as a result, he was entitled to a new trial. The state moved to dismiss defendant's appeal under the "former fugitive doctrine," arguing that the delay caused by defendant's flight from justice would prejudice the state in any retrial because the passage of time would make it difficult to locate witnesses and present evidence. The Court of Appeals agreed and dismissed defendant's appeal.

In a unanimous opinion authored by Chief Justice Meagan A. Flynn, the

Supreme Court reversed. The Court first explained that it assumed without deciding that the Court of Appeals has inherent authority to dismiss a criminal defendant's appeal when the defendant's flight from justice significantly interferes with the appellate process. But, the Court continued, prejudice to the state that will arise only on remand lacks the kind of connection to the appellate process that would justify an appellate court refusing to consider the defendant's appeal. Instead, the Court concluded that any alleged prejudice to the state in a retrial is most appropriately addressed by the trial court, should the Court of Appeals determine that reversible error had occurred, because the trial court is in the best position to address such prejudice. Accordingly, the Court reversed the Court of Appeals order of dismissal and remanded the case to that court, to consider the merits of defendant's appeal.