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Justices let judges sentence repeat offenders to extended terms

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Judges may sentence repeat offenders to extended prison terms, the New Jersey Supreme Court ruled yesterday, rejecting arguments that only juries can make such determinations.

In a pair of rulings, the justices upheld the constitutionality of statutes subjecting repeat offenders to much longer prison terms than a first-time offender would face. In both cases, the justices rejected arguments that only juries, not judges, had the power to determine whether the defendant qualified for the longer term.

"We're happy with the result the court reached in upholding the constitutionality of the extended-term statutes," said Assistant Attorney General Carol Henderson, who argued one of the cases.

The cases were the latest fallout from a 2000 U.S. Supreme Court ruling striking down New Jersey's "hate crime" law because it allowed a judge to impose a longer prison term on a defendant motivated by bias. The high court ruled such a determination had to be made by a jury.

Ever since, courts around the nation have been grappling with the implications for sentencing laws that authorize longer prison terms under certain conditions. Generally, juries must determine any fact that increases a defendant's time behind bars. There is one well-recognized exception: judges may consider a defendant's prior criminal record.

That exception applies to a New Jersey law that requires longer prison terms for repeat drug offenders, the state Supreme Court yesterday ruled in 6-0 decision. But it ordered a new sentencing hearing for the defendant, Chris Thomas, who was arrested in Newark and sentenced prior to the court's landmark ruling last year on how such cases should be handled.

Assistant Deputy Public Defender Frank Pugliese said he expected that result and was pleased.

In the companion case, the justices split 4-2 on the constitutionality of a law giving judges discretion to impose longer prison terms on repeat violent offenders.

In that case, Maurice Pierce was convicted in Union County of armed robbery, a crime that ordinarily carries a top sentence of 20 years in prison. But the sentencing judge looked at Pierce's record of 14 prior convictions -- seven as an adult and seven as a juvenile -- and determined he qualified for an extended term of 20 years to life. Pierce was sentenced to 40 years in prison.

The dissenters, Justices Barry Albin and John Wallace, said that violated Pierce's constitutional rights. They said the critical determination -- whether a longer sentence is needed for the "protection of the public" -- was a fact that had to be found by a jury.

Writing for the majority, Justice Jaynee LaVecchia disagreed in a ruling that subtly changes the way judges must handle such cases.

LaVecchia explained that the judge must first determine, based on the defendant's record, whether he

qualifies for an extended term. Having done that, the judge then must consider the need to protect the public in setting the precise sentence. In Pierce's case, the need to protect the public would determine whether he gets a sentence closer to 20 years or to life imprisonment.

With that explanation, the court sent Pierce's case back for a resentencing at which he could get less than 40 years, but not more.

Assistant Deputy Public Defender Marcia Blum, who had argued only jurors can determine whether a defendant poses a threat to public safety, said, "We're disappointed."

Justice Virginia Long did not participate in either case.

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