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ADVANCE SHEET HEADNOTE
April 7, 2014

2014 CO 22

No. 11SC100, People v. Roldan – Criminal Law – Jury.

The People petitioned for review of the court of appeals judgment in People v. Roldan, ___ P.3d ___, ___, No. 08CA2487 (Colo. App. Jan. 20, 2011), in which that court reversed Roldan's conviction for theft by receiving and his sentence to three years probation. Upon concluding that the trial court abused its discretion in denying a challenge for cause on the grounds of juror bias, and that the defendant removed the prospective juror in question with a peremptory challenge and subsequently exhausted his remaining peremptory challenges, a majority of the division reversed, noting this court's rule of automatic reversal in People v. Macrander, 828 P.2d 234, 244 (Colo. 1992).

The supreme court reversed because the court of appeals relied on the bright-line, automatic reversal rule of Macrander, which has now been overruled, and remanded the case to apply the outcome-determinative standard set forth in People v. Novotny, 2014 CO 18.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2014 CO 22

Supreme Court Case No. 11SC100
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 08CA2487

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Daniel Lee Roldan.

Judgment Reversed

en banc

April 7, 2014

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JUSTICE COATS delivered the Opinion of the Court.
JUSTICE HOOD dissents, and **JUSTICE HOBBS** joins in the dissent.

¶1 The People petitioned for review of the court of appeals judgment in People v. Roldan, ___ P.3d ___, ___, No. 08CA2487 (Colo. App. Jan. 20, 2011), in which that court reversed Roldan’s conviction for theft by receiving and his sentence to three years probation. Upon concluding that the trial court abused its discretion in denying a challenge for cause on the grounds of juror bias, and that the defendant removed the prospective juror in question with a peremptory challenge and subsequently exhausted his remaining peremptory challenges, a majority of the division reversed, noting this court’s rule of automatic reversal in People v. Macrander, 828 P.2d 234, 244 (Colo. 1992). Judge Bernard filed a separate opinion, specially concurring and expressly soliciting our reconsideration of the requirement for automatic reversal under these circumstances. The People petitioned solely on this ground.

¶2 In People v. Novotny, 2014 CO 18, ¶ 27, we overruled the automatic reversal rule announced in Macrander, holding that the reversal of a criminal conviction for other than structural error, in the absence of express legislative mandate or an appropriate case specific, outcome-determinative analysis, could no longer be sustained. We further found that allowing a defendant fewer peremptory challenges than authorized by statute or rule does not, in and of itself, amount to structural error. Id.

¶3 Because the court of appeals relied on the bright-line, automatic reversal rule of Macrander, rather than evaluating the likely effect of the trial court’s error on the outcome of the specific case in which it occurred, and because the automatic reversal requirement of Macrander has now been overruled, the judgment of the court of

appeals is reversed, and the case is remanded for reconsideration in light of our holding in Novotny.

JUSTICE HOOD dissents, and **JUSTICE HOBBS** joins in the dissent.

JUSTICE HOOD, dissenting.

¶4 In People v. Novotny, 2014 CO 18, ¶ 27, this court overturned the automatic-reversal rule of People v. Macrander, 828 P.2d 234 (Colo. 1992), and replaced it with an “appropriate case specific, outcome-determinative analysis.” I dissented, in part because I am convinced that Novotny substitutes “Macrander’s rule mandating automatic reversal with a rule seeming to mandate automatic affirmance.” See Novotny, ¶ 31 (Hood, J., concurring in part and dissenting in part). For the same reasons articulated in that dissent, I respectfully dissent here as well.

I am authorized to state that JUSTICE HOBBS joins in the dissent.