

Corpus Delicti Rule Revisited

By: Brett A. Purtzer, Dec 2007

Recently, Division II Court of Appeals re-addressed the corpus delicti rule in State v. Hendrickson, 2007 WL 2774332 (Wn.App. Div. II). There, Mr. Hendrickson was charged with driving while under the influence after his vehicle was found at the bottom of a ravine. The keys were in the ignition and the Trooper determined, through the Department of Licensing database, that Mr. Hendrickson was the owner of the vehicle. When the officer arrived, Mr. Hendrickson told the officer that he had been following a friend home, lost control of his car and had driven off the road attempting to avoid an oncoming car that was passing improperly. Mr. Hendrickson admitted to the officer that he had been drinking, that he was intoxicated and that he should not have been driving.

Prior to trial, but not at a separate motion hearing, Mr. Hendrickson's attorney asked that Mr. Hendrickson's statements be suppressed until the State proved the corpus delicti of driving while under the influence. During trial, and over Mr. Hendrickson's objection that the State had failed to establish corpus delicti, the State elicited the testimony from the responding officers regarding Mr. Hendrickson's admissions that he had been drinking and driving the vehicle. At the close of the State's case, Mr. Hendrickson moved to dismiss, arguing that the State had failed to prove the corpus delicti of the crime. The District Court found that the State had proved the corpus delicti and denied the motion to dismiss. Mr. Hendrickson was convicted of DUI.

On appeal, the Superior Court reversed the jury's verdict and dismissed the charge, ruling that the trial court erred in permitting the State to introduce Mr. Hendrickson's statements before the corpus delicti for the crime was established. The Superior Court held that, although the State introduced sufficient evidence at trial to establish the corpus delicti, such evidence should have been presented before the defendant's statements were admitted.

On appeal, the Appellate Court reviewed two primary issues: whether the State had established corpus delicti independent of Mr. Hendrickson's confessions, and, second, whether the State must establish corpus delicti before admitting Mr. Hendrickson's statements. Upon reversing the Superior Court, Division II held that the District Court did not err by admitting Mr. Hendrickson's confession before independent evidence established corpus delicti.

In reviewing the corpus delicti rule, the Hendrickson court reaffirmed its principle, which requires the State to “present evidence independent of the incriminating statement that the crime a defendant described in the statement actually occurred.”

The Court of Appeals affirmed both the District Court’s and Superior Court’s ruling that the corpus delicti had been established. The more significant aspect of the decision, however, is with respect to the timing of proof. As opposed to having a pre-trial motion, the corpus delicti rule came up during the course of the trial. This did not concern the Court of Appeals, although it did qualify its decision when it stated that “the better practice was to establish corpus delicti before presenting testimony related to the defendant’s admissions or confessions.” The court held, however, that the trial court has the discretion to admit evidence out of order so long as the predicate evidence justifying its admission is also presented before the party rests its case.

Hendrickson does not change the corpus delicti rule, although it does note that Washington is in the minority of jurisdictions that has not adopted the more relaxed rule used by the Federal Courts. What is significant though, is that when a corpus delicti issue is raised, this motion should be addressed pre-trial, in a separate hearing. It is often too difficult to sway a court on a motion to dismiss regarding the corpus delicti when you are in the middle of trial and your client’s statement has been introduced. As the Appellate Court properly noted, the trial court has discretion to admit evidence out of order. As such, the practice point to be gained from Hendrickson is not that the corpus delicti rule has been changed or weakened, but, rather, that one must raise the corpus delicti motion pre-trial so that the court has a chance to view the evidence in a purely corpus delicti mode as opposed to having the court consider all of the evidence that might be presented at trial.

End

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