Elma woman's homicide conviction thrown out

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The Washington State Supreme Court has unanimously overturned an Elma woman's conviction for controlled substances homicide because of an issue in the prosecutor's charging paperwork.

Brenda Zillyette, 46, was convicted in 2010 in the death of 18-year-old Austin Burrows. Zillyette gave Burrows methadone and Xanax pills, which they crushed into a powder and snorted together hours before Burrows died of an overdose April 1, 2009. She was sentenced to 4 1/2 years in prison.

The Supreme Court ruled that the prosecutor's charging information lacked essential information establishing the basis for the charge against Zillyette. The charging documents state Zillyette provided Burrows with controlled substances which caused his death, but don't specify what.

"To effectively charge Zillyette with controlled substances homicide, the information needed to include the identity of the controlled substance — methadone — or at least the schedule under which methadone falls, Schedule II," the court wrote.

It's a small but important detail; Schedule I, II and III controlled substances can be the basis for a controlled substance homicide charge, but Schedule IV drugs, like Xanax, and Schedule V cannot.

"The specific identity of a controlled substance is not necessarily an essential element of controlled substances homicide. However, because not all controlled substances can be the basis for controlled substances homicide, some degree of specification 'is necessary to establish the very illegality of the behavior,' " the court concluded.

The essential elements rule is there to give notice to the defendant of exactly what he or she is accused of, and to protect them from being prosecuted again for the same offense. It goes to the defendant's Sixth Amendment rights and rights established in the Washington State Constitution to be informed of the charges against them.

Zillyette appealed her conviction, alleging insufficient evidence from prosecutors and the lack of information in the charging documents, but state Court of Appeals upheld the conviction in 2011. It said then that the charging documents were irrelevant because Zillyette didn't show evidence of actual prejudice by the court.

After that, Zillyette petitioned the state Supreme Court for review. The high court accepted her petition and directed the Appeals Court to consider her case again, this time considering whether the information was valid before it considered the result. The Appeals Court said it would only be relevant if the specific drug were part of an aggravating factor in considering her sentence. Zillyette petitioned the state Supreme Court to review that ruling, and the high court overturned her conviction.

Read the full Supreme Court opinion here: http://1.usa.gov/14Oi1Qw.