

NEBRASKA SUPREME COURT

State v. Phillips

297 Neb. 469 (2017) · No. No. S-16-845 · Decided August 11, 2017

SUMMARY

The Nebraska Supreme Court affirmed Christian E. Phillips’ conviction and sentence for failing to register as required by the Sex Offender Registration Act. The court held that the 12-month imprisonment term was not excessive and that Phillips waived constitutional objections to the conditions of his 12-month term of postrelease supervision because he had notice of the conditions and an opportunity to challenge them.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Heavican, C.J.; Wright, J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Kelch, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	August 11, 2017
DOCKET	No. S-16-845
DISPOSITION	affirmed
PROCEDURAL POSTURE	Phillips pleaded no contest under a plea agreement to failure to register under the Sex Offender Registration Act and appealed the sentence and conditions of postrelease supervision imposed by the Lancaster County District Court.
STANDARD OF REVIEW	A sentence within statutory limits is reviewed for abuse of discretion. Abuse of discretion exists when the trial court's decision rests on untenable or unreasonable reasons or is clearly against justice, conscience, reason, and evidence.
PRECEDENTIAL VALUE	published precedential opinion of the Nebraska Supreme Court
PARTIES	Christian E. Phillips v. State of Nebraska

TOPICS

- sentencing
- standard of review
- preservation of error
- appellate procedure
- criminal procedure

PRACTICE AREAS

criminal law

sentencing

appellate procedure

postrelease supervision

QUESTIONS PRESENTED

1. Whether Phillips's 12-month term of imprisonment for failure to register under the Sex Offender Registration Act was excessive.
2. Whether Phillips preserved objections to the conditions of his postrelease supervision and, if so, whether those conditions violated the First Amendment, ex post facto protections, the Fourth Amendment, due process, or rehabilitation-related limits.

HOLDINGS

1. A sentence within statutory limits is not excessive where the sentencing court properly considers the relevant sentencing factors and applicable legal principles; Phillips's 12-month sentence was within the statutory range and was not an abuse of discretion.
2. A defendant waives objections to postrelease-supervision conditions when the defendant was adequately informed of the conditions and had an opportunity to challenge them but failed to specify sufficient objections.
3. For the determinate sentence imposed in this case, the district court properly imposed both a term of imprisonment and a term of postrelease supervision with conditions.

KEY QUOTATIONS

"If a defendant is not adequately informed about the conditions imposed or does not receive an opportunity to challenge them, there can be no waiver." (478)

"The sentencing court is not limited to any mathematically applied set of factors." (476)

FACTUAL BACKGROUND

Phillips had previously been convicted of third degree sexual assault of a child and was required to register under the Sex Offender Registration Act for 25 years. After his release, he reported a fictitious Sarpy County address and failed to report the different address where he was actually residing. He pleaded no contest to failing to register and received 12 months' imprisonment followed by 12 months' postrelease supervision with extensive conditions, including restrictions on association, substance use, searches, internet use, and sexually oriented materials.

PROCEDURAL HISTORY

Phillips was convicted of violating the Sex Offender Registration Act after failing to report his actual address. The district court imposed 12 months' imprisonment and 12 months' postrelease supervision with numerous conditions. The Nebraska Supreme Court affirmed, holding that the imprisonment sentence was not excessive and that Phillips waived objections to the supervision conditions by failing to sufficiently state his objections despite notice and an opportunity to challenge them.

DISPOSITION

affirmed

CASES CITED

- State v. Dixon, 286 Neb. 334, 837 N.W.2d 496 (2013)
- State v. Loding, 296 Neb. 670, 895 N.W.2d 669 (2017)
- State v. Dominguez, 290 Neb. 477, 860 N.W.2d 732 (2015)
- State v. Marrs, 272 Neb. 573, 723 N.W.2d 499 (2006)

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