

SUPREME COURT OF ARKANSAS

Bolin v. State

459 S.W.3d 788 (Ark. 2015) · Decided April 9, 2015

SUMMARY

The Arkansas Court of Appeals held that the Comprehensive Criminal Record Sealing Act applied retroactively to Bolin’s misdemeanor convictions but not to his felony conviction. The court reversed and remanded for consideration of sealing the felony under the Community Punishment Act in effect at the relevant time and the misdemeanors under the applicable CCRSA provisions.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Rhonda K. Wood, Associate Justice; Hannah, C.J.; Wood, J.; Wynne, J.
JURISDICTION	Arkansas
DECIDED	April 9, 2015
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Bolin appealed the circuit court's denial, without a hearing, of his petition to seal records relating to two misdemeanor convictions and one Class D felony conviction.
STANDARD OF REVIEW	De novo review applies to the correct application and interpretation of Arkansas statutes.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Cameron Bolin v. State of Arkansas

TOPICS

- criminal procedure
- statutory interpretation
- legislative intent
- remedies

PRACTICE AREAS

- criminal procedure
- statutory interpretation
- criminal record sealing
- remedies

QUESTIONS PRESENTED

1. Whether the Comprehensive Criminal Record Sealing Act applies retroactively to records of offenses committed before its effective date.

2. Whether the Comprehensive Criminal Record Sealing Act applies retroactively to Bolin's felony conviction.
3. Whether the Comprehensive Criminal Record Sealing Act applies retroactively to Bolin's misdemeanor convictions.
4. Whether Bolin's misdemeanor records may be sealed even though his sentencing order did not specifically state that he was sentenced under the Community Punishment Act.

HOLDINGS

1. The Comprehensive Criminal Record Sealing Act does not apply retroactively to Bolin's felony conviction because the legislature expressly authorized retroactive application for misdemeanors but included no comparable authorization for felonies.
2. Even if the Comprehensive Criminal Record Sealing Act is procedural or remedial, its procedural or remedial character cannot override the legislature's clearly expressed decision to make it retroactive for misdemeanors but not felonies.
3. Bolin's misdemeanor records are eligible for sealing under section 16-90-1405 if he satisfies that statute's requirements, and eligibility does not depend on a notation in the sentencing order that he was sentenced under the Community Punishment Act.

KEY QUOTATIONS

“Only when the General Assembly expressly provides that an act should be applied retroactively will we do so.” (459 S.W.3d at 790)

“Accordingly, we hold that the CCRSA does not retroactively apply to Bolin’s felony conviction, but that the CCRSA does retroactively apply to Bolin’s misdemeanor convictions.” (459 S.W.3d at 791)

FACTUAL BACKGROUND

Bolin pleaded no contest to two misdemeanors and one Class D felony in January 2011. He received ninety days of probation for the misdemeanors and three years of probation for the felony. The Community Punishment Act in effect at sentencing allowed expungement upon successful completion of probation, but the Comprehensive Criminal Record Sealing Act became effective before Bolin completed felony probation and imposed a five-year waiting period for sealing Class D felony records. Bolin completed felony probation on January 19, 2014, and petitioned to seal all of his records.

PROCEDURAL HISTORY

Bolin pleaded no contest in January 2011 and received probation for two misdemeanors and one Class D felony. After completing his felony probation, he petitioned to seal all records. The circuit court applied the Comprehensive Criminal Record Sealing Act retroactively and denied the petition because five years had not elapsed since completion of probation. The Supreme Court of Arkansas reversed and remanded.

DISPOSITION

REMAND INSTRUCTIONS

The circuit court must apply the Community Punishment Act version in effect at the time of sentencing to determine whether Bolin's felony records should be sealed, and must consider whether his misdemeanor records should be sealed under Ark. Code Ann. § 16-90-1405.

CASES CITED

- Gulley v. State, 2012 Ark. 368, 423 S.W.3d 569 (2012)
- Harrell v. City of Conway, 296 Ark. 247, 753 S.W.2d 542 (1988)
- Olson v. Olson, 2014 Ark. 537, 453 S.W.3d 128 (2014)
- Broussard v. St. Edward Mercy Health Sys., Inc., 2012 Ark. 14, 386 S.W.3d 385 (2012)
- Bean v. Office of Child Support Enforcement, 340 Ark. 286, 9 S.W.3d 520 (2000)
- Elders v. State, 321 Ark. 60, 900 S.W.2d 170 (1995)
- State v. Murphy, 315 Ark. 68, 864 S.W.2d 842 (1993)
- Barclay v. First Paris Holding Co., 344 Ark. 711, 42 S.W.3d 496 (2001)
- Roeder v. United States, 2014 Ark. 156, 432 S.W.3d 627 (2014)
- Larry Hobbs Farm Equip., Inc. v. CNH Am., LLC, 375 Ark. 379, 291 S.W.3d 190 (2009)
- State v. Pinell, 353 Ark. 129, 114 S.W.3d 175 (2003)
- City of Conway v. Housing Authority of City of Conway, 266 Ark. 404, 584 S.W.2d 10 (1979)
- Fulmer v. State, 337 Ark. 177, 987 S.W.2d 700 (1999)
- State v. Brown, 2010 Ark. 483 (2010)