

**COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY**

City of Cleveland v. Robinson

2020-Ohio-1030 (Ohio Ct. App. 2020) · No. No. 109273 · Decided March 19, 2020

SUMMARY

The Ohio Eighth District Court of Appeals reversed Jovan Robinson’s criminal contempt conviction and remanded the case. The court held that alleged violations of a no-contact order occurring outside the court’s presence constituted indirect criminal contempt, requiring procedural protections under Ohio Revised Code section 2705.03, including an adversary hearing. Because no evidentiary or adversary hearing was held, the conviction violated Robinson’s due process rights.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Larry A. Jones, Sr.; Sean C. Gallagher; Eileen A. Gallagher
JURISDICTION	Ohio
DECIDED	March 19, 2020
DOCKET	No. 109273
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Robinson appealed his conviction for contempt of court in the Cleveland Municipal Court. The City conceded that the trial court had treated an alleged violation occurring outside the court's presence as direct criminal contempt rather than indirect criminal contempt.
STANDARD OF REVIEW	The appellate court reviewed whether the trial court properly convicted Robinson of contempt and afforded the procedural protections required for indirect criminal contempt.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Jovan Robinson v. City of Cleveland

TOPICS

criminal procedure

due process

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the alleged violation of the no-contact order constituted direct or indirect contempt.
2. Whether Robinson was entitled to the procedural safeguards applicable to indirect criminal contempt, including a written charge, an adversary hearing, and an opportunity for legal representation.
3. Whether the municipal court could find Robinson guilty of criminal contempt without an evidentiary or adversary hearing.

HOLDINGS

1. An alleged violation occurring outside the presence of the court is indirect contempt, not direct contempt.
2. A person charged with indirect criminal contempt must receive procedural safeguards, including a written charge, an adversary hearing, and the opportunity for legal representation.
3. The contempt conviction must be reversed because the municipal court found Robinson guilty of indirect criminal contempt without providing the required adversary hearing.

KEY QUOTATIONS

“Because the court generally has no personal knowledge of the alleged contemptuous behavior, it must afford the accused procedural safeguards such as a written charge, an adversary hearing, and the opportunity for legal representation.” (2020-Ohio-1030)

“The alleged violation here did not occur in the presence of the court and therefore direct contempt is not applicable in this case.” (2020-Ohio-1030)

“Because this was in the nature of an indirect contempt, Robinson was entitled to, but not afforded, the procedural protections set forth in R.C. 2705.03.” (2020-Ohio-1030)

FACTUAL BACKGROUND

Robinson was subject to a court no-contact order and conditions of participation in a court-supervised release program. The City alleged that he violated those restrictions by making calls from jail to the alleged victim. The alleged conduct occurred outside the presence of the court, but the municipal court found Robinson guilty of contempt without holding an evidentiary or adversary hearing.

PROCEDURAL HISTORY

Robinson was charged with contempt after the City alleged that he violated a no-contact order by calling the alleged domestic-violence victim from jail. At the hearing, the underlying domestic-violence and unlawful-restraint charges were dismissed, no evidentiary hearing was held, and the municipal court found Robinson guilty of contempt based on argument and the parties' statements. Robinson appealed, and the City conceded error. The appellate court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion. The Cleveland Municipal Court was directed to execute the appellate judgment.

CASES CITED

- State v. Flinn, 7 Ohio App. 3d 294, 295, 455 N.E.2d 691 (9th Dist. 1982)
- In re Purola, 73 Ohio App. 3d 306, 310-12, 596 N.E.2d 1140 (3d Dist. 1991)
- In re Lands, 146 Ohio St. 589, 595, 67 N.E.2d 433 (1946)
- State ex rel. Seventh Urban, Inc. v. McFaul, 5 Ohio St. 3d 120, 122, 449 N.E.2d 445 (1983)
- State v. Moody, 116 Ohio App. 3d 176, 180, 687 N.E.2d 320 (12th Dist. 1996)
- Brown v. Executive 200, Inc., 64 Ohio St. 2d 250, 254, 416 N.E.2d 610 (1980)
- State v. Kilbane, 61 Ohio St. 2d 201, 205, 400 N.E.2d 386 (1980)
- State v. Dean, 2d Dist. Clark Nos. 2006CA61 and 2006CA63, 2007-Ohio-1031, ¶ 18