

SUPREME COURT OF DELAWARE

Weston v. State

832 A.2d 742 (Del. 2003) · No. No. 182, 2003 · Decided September 30, 2003

SUMMARY

The Supreme Court of Delaware affirmed the Superior Court’s finding that Kashawn D. Weston violated the conditions of his probation and its resulting sentence. The court held that a one-and-one-half-hour delay to allow the State’s witnesses to arrive was not an abuse of discretion. It also held that the sentence was within statutory limits and was not based on impermissible factors or a closed mind.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Holland, Justice; Veasey, Chief Justice; Berger, Justice
JURISDICTION	Delaware
DECIDED	September 30, 2003
DOCKET	No. 182, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Weston appealed a Superior Court judgment finding him in violation of probation and resentencing him to four and one-half years of incarceration followed by supervised custody and probation.
STANDARD OF REVIEW	A continuance ruling is reviewed for abuse of discretion and will not be disturbed unless clearly unreasonable or capricious. Appellate review of a sentence is limited to whether it is within statutory limits and based on factual predicates that are false, impermissible, or lack minimal reliability, or whether the sentencing judge acted with judicial vindictiveness, bias, or a closed mind.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Kashawn D. Weston v. State of Delaware

TOPICS

- probation
- sentencing
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Superior Court abused its discretion by delaying the violation-of-probation hearing approximately one and one-half hours to allow the State's witnesses to arrive.
2. Whether the sentence imposed after the probation violation was excessive or resulted from the sentencing judge's closed mind.

HOLDINGS

1. The Superior Court did not abuse its discretion by delaying the hearing for approximately one and one-half hours to permit the State's witnesses to arrive.
2. The sentence was appropriate because it was within the statutory limits and the record did not show reliance on impermissible factors, judicial vindictiveness, bias, or a closed mind.

KEY QUOTATIONS

"First, the party seeking the continuance has the burden of establishing a clear record of the relevant facts relating to the criteria for a continuance, including the length of the requested continuance. Second, the party seeking the continuance must show: (a) that it was diligent in preparing for the presentation of the testimony; (b) that the continuance will be likely to satisfy the need to present the testimony; and (c) that the inconvenience to the Court, opposing parties, witnesses and jurors is insubstantial in relation to the likely prejudice which would result from the denial of the continuance." (745)

"The record reflects it was not an abuse of discretion for the Superior Court to delay the violation of probation proceedings one and one-half hours in order for the State's witnesses to arrive." (745)

"A judge sentences with a closed mind when the sentence is based on a preconceived bias without consideration of the nature of the offense or the character of the defendant." (746)

FACTUAL BACKGROUND

Weston was serving probation and Level IV home confinement with conditions requiring compliance with a curfew and immediate reporting of changes in employment or residence. After alleged curfew violations, a probation officer executed an administrative warrant at Weston's residence, where officers found ammunition, a loaded revolver, crack cocaine, digital scales, cocaine residue, torn plastic baggies, and cash. The Superior Court found Weston in violation of probation and sentenced him to the remaining unsuspended portion of his sentence.

PROCEDURAL HISTORY

Weston pleaded guilty in 2000 to second-degree assault and possession of a firearm during the commission of a felony. After later pleading guilty to possession with intent to deliver cocaine and admitting probation violations, he was placed on Level IV home confinement. Following a contested violation-of-probation hearing, the Superior Court found violations based on curfew violations and evidence of drugs, a firearm, and ammunition at his residence, and resentenced him. The Supreme Court of Delaware affirmed.

DISPOSITION

affirmed

CASES CITED

- Secrest v. State, 679 A.2d 58, 64, 66 (Del. 1996)
- Bailey v. State, 521 A.2d 1069, 1088 (Del. 1987)
- Siple v. State, 701 A.2d 79, 83 (Del. 1997)
- Mayes v. State, 604 A.2d 839, 842-43 (Del. 1992)
- Samuel v. State, 1997 WL 317362, at *1 (Del. 1997)
- Ellerbe v. State, 2000 WL 949625, at *1 (Del. 2000)
- Shelton v. State, 744 A.2d 465, 513 (Del. 1999)