

MASSACHUSETTS SUPREME JUDICIAL COURT

Commonwealth v. Parrillo

468 Mass. 318 (2014) · Decided June 11, 2014

SUMMARY

The Massachusetts Supreme Judicial Court held that Commonwealth v. Cole required vacatur of John J. Parrillo's community parole supervision for life sentence because the CPSL scheme was unconstitutional under separation-of-powers principles. The court remanded for resentencing, permitting resentencing only insofar as it would not increase the aggregate punishment or violate double-jeopardy protections. The court did not reach the defendant's additional constitutional challenges to CPSL.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Cordy, J.
JURISDICTION	Massachusetts
DECIDED	June 11, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant appealed from the denial, without a hearing, of his Mass. R. Crim. P. 30(a) motion to correct an illegal sentence and vacate his community parole supervision for life sentence. The Massachusetts Supreme Judicial Court transferred the case from the Appeals Court on its own motion.
STANDARD OF REVIEW	The court reviewed the denial of a Mass. R. Crim. P. 30(a) motion concerning the legality and constitutionality of the sentence; the legal questions were reviewed de novo.
PRECEDENTIAL VALUE	Published, precedential Massachusetts Supreme Judicial Court opinion
PARTIES	John J. Parrillo v. Commonwealth

TOPICS

- sentencing
- criminal procedure
- separation of powers
- double jeopardy
- post-conviction relief

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Parrillo's community parole supervision for life sentence was unconstitutional.
2. Whether the court could vacate only the community parole supervision for life component or was required to permit resentencing on the integrated sentencing package.
3. Whether resentencing after a Rule 30(a) motion would violate double jeopardy principles.

HOLDINGS

1. The community parole supervision for life sentence was unconstitutional because the statutory scheme delegated the distinctly judicial power to impose sentences to the executive-branch parole board, violating separation-of-powers principles, and the unconstitutional provision was not severable from the remainder of the scheme.
2. Because CPSL was imposed as part of an integrated sentencing package, the entire sentencing scheme had to be vacated and the judge had to be afforded an opportunity to restructure the sentence.
3. Resentencing following the defendant's Rule 30(a) motion does not itself violate double jeopardy, but the aggregate punishment may not be increased and the resentencing must be quantitatively fair.

KEY QUOTATIONS

“There is no violation of the prohibition against double jeopardy in engaging in resentencing when a defendant files a rule 30 (a) motion to correct his sentence, because he “knowingly expose[s] himself to the possibility that his entire sentencing scheme might be restructured.”” (at 321)

“However, to accord with double jeopardy principles, resentencing must not result in any increase in the aggregate punishment and must be “quantitatively fair.”” (at 321)

FACTUAL BACKGROUND

In 2008, a jury found John J. Parrillo guilty of indecent assault and battery on a person over fourteen, simple assault and battery, and open and gross lewdness. He received prison terms, probation with special conditions, and community parole supervision for life, apparently on the indecent-assault conviction. By the time of appellate review, he had served the prison terms for the indecent-assault and simple-assault convictions and remained on probation for the suspended sentence on the lewdness conviction.

PROCEDURAL HISTORY

A jury convicted Parrillo in the District Court of indecent assault and battery on a person over fourteen, simple assault and battery, and open and gross lewdness. The trial judge imposed terms of imprisonment, probation, and community parole supervision for life. The judge denied Parrillo's Rule 30(a) motion in June 2011, and Parrillo appealed. The Supreme Judicial Court transferred the appeal and vacated the sentences, remanding for resentencing.

DISPOSITION

REMAND INSTRUCTIONS

The case was remanded to the District Court for resentencing consistent with the opinion. The judge may not resentence Parrillo on the indecent-assault and simple-assault convictions for which he had already served his sentences if doing so would increase punishment. The judge may resentence on the open-and-gross-lewdness conviction in the judge's discretion, provided the new sentence does not increase the aggregate punishment and is quantitatively fair.

CASES CITED

- Commonwealth v. Cole, 468 Mass. 294, 308-309, 311 (2014)
- Commonwealth v. Pagan, 445 Mass. 161, 174 (2005)
- Commonwealth v. Azar, 444 Mass. 72, 76-77 (2005)
- Commonwealth v. Renderos, 440 Mass. 422, 431-435 (2003)
- Commonwealth v. McGuinness, 421 Mass. 472, 475 (1995)
- Commonwealth v. Boyd, 73 Mass. App. Ct. 190, 197 (2008)
- Commonwealth v. Talbot, 444 Mass. 586, 597-598 (2005)
- Commonwealth v. Cumming, 466 Mass. 467, 471-474 (2013)
- Commonwealth v. Leggett, 82 Mass. App. Ct. 730, 737 (2012)
- Katz v. Commonwealth, 379 Mass. 305, 316 (1979)
- Osborne v. Commonwealth, 378 Mass. 104, 114-115 (1979)
- Apprendi v. New Jersey, 530 U.S. 466 (2000)