

SUPREME COURT OF CONNECTICUT

State v. Barile

267 Conn. 576 (2004) · Decided February 3, 2004

SUMMARY

The Connecticut Supreme Court affirmed a judgment finding Michael Barile in violation of probation for failing to complete court-ordered sex offender treatment. The court held that Barile waived any federal or state constitutional claims against a probation condition requiring him to undergo a polygraph examination because he did not raise those claims below and affirmatively acquiesced to the order.

CASE DETAILS

COURT	Supreme Court of Connecticut
JURISDICTION	Connecticut
DECIDED	February 3, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed from a judgment finding him in violation of probation. The appeal was transferred from the Appellate Court to the Supreme Court of Connecticut.
STANDARD OF REVIEW	The court reviewed the record to determine whether the defendant had preserved or waived the constitutional claims presented on appeal.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Michael Barile v. State

TOPICS

- probation
- fifth amendment
- criminal procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

- criminal procedure
- constitutional law
- probation
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court violated Barile's rights against self-incrimination under the Fifth Amendment to the United States Constitution and article first, § 8, of the Connecticut Constitution by ordering him to undergo a polygraph examination during the dispositional phase of a probation-violation proceeding.

HOLDINGS

1. The court did not reach the merits of the constitutional challenge because Barile waived the claims by failing to raise them in the trial court and by affirmatively acquiescing in the order requiring the polygraph examination.

KEY QUOTATIONS

“Our review of the record, however, discloses that, not only did the defendant never raise in the trial court the constitutional claim or claims that he now presents on appeal, but he affirmatively acquiesced to the trial court’s order and, therefore, he waived any such claims.” (580)

FACTUAL BACKGROUND

Barile was convicted in 1998 of risk of injury to a child and received a sentence including five years of probation, conditioned in part on cooperation with sex-offender treatment deemed necessary by adult probation. After more than a year of treatment, he continued to deny the sexual conduct underlying his conviction and refused to submit to polygraph examinations, resulting in his discharge from the treatment program. The trial court found that he had violated probation and ordered him to undergo a polygraph examination by an examiner selected by adult probation.

PROCEDURAL HISTORY

The trial court found Barile in violation of probation for failing to complete court-ordered sex-offender treatment and, during the dispositional phase, enlarged his probation conditions to require a polygraph examination by an examiner selected by adult probation. Barile appealed, asserting that the order violated his federal and state rights against self-incrimination. The Supreme Court affirmed, concluding that he had waived those constitutional claims by failing to raise them below and by affirmatively acquiescing in the order.

DISPOSITION

affirmed

CASES CITED

- State v. Hill, 256 Conn. 412, 425, 773 A.2d 931 (2001)

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